MT LEGISLATIVE HISTORY

Chapter 39 19 77

Bill (H) 40 S _____ Original bill & hist. ___C

H. Committee on Business & Industry			S. Committee on Business & Industry		
Hearing Date(s)	JAN 12	✓ C	Hearing Date(s)	FEB 22	✓ C
	JAN 12	✓ C			C
		C			C
		C			C
Date Out	JAN 12	✓ C		FEB 22	✓ C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

HOUSE BILL NO. 40

INTRODUCED BY KVAALEN

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO MINERALS, OIL, AND GAS; AMENDING SECTIONS 50-202, 50-204, 50-205, 50-303, 50-304, 50-305, 50-429, 50-476, 50-480.7, 50-714, 50-805, 50-1043, 50-1203, 50-1209, 50-1404, 50-1503, 50-1504, 50-1505, 50-1506, 50-1507, 50-1508, 50-1509, 50-1510, 50-1511, 50-1512, 50-1513, 50-1514, 50-1515, 50-1516, 50-1516.1, 50-1517, 60-227, 60-606, 69-3303, 69-3305, AND 73-115, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-202, R.C.M. 1947, is amended to read as follows:

"50-202. Samples of fifty pounds per ton to be retained until settlement. ~~Every such~~ A person, association, or corporation which ~~shall buy~~ buys any ores upon ~~any~~ an agreement to pay for ~~the same~~ them in amount dependent upon ~~the~~ their metallic contents ~~of the same,~~ or ~~smelt~~ smelts any ore~~,~~ shall retain from the pulp or crushed ore, as the same is sampled, ~~an amount~~ a quantity of not less than 50 pounds out of each ton of ore, which quantity shall be selected regularly and at equal intervals from any lot of ore so ~~brought~~ bought or to be smelted, ~~a quantity not less than fifty pounds out of each ton of such ore,~~ and shall keep ~~the same~~ this quantity separate ~~and apart~~ from any other ores or pulp for a period of ~~thirty~~ 30 days~~,~~ or until full settlement is made and accepted by the shipper~~;~~, ~~and until such~~ Until full settlement is made and accepted, the ore shipper, his agents, or representatives~~, shall be entitled to~~ may take from the quantity so retained any part thereof for the purpose of sampling or assaying ~~the same~~ that part; ~~provided, that~~ however, the value of any part so taken by ~~such~~ the owner or shipper may be deducted from the total value of the ore delivered by him."

Section 2. Section 50-204, R.C.M. 1947, is amended to read as follows:

"50-204. Umpire assayers — appointment, qualifications, and duties. ~~Any~~ A person, association, or corporation engaged in the sampling of ores with intent to purchase or smelt ~~the same~~ them, whether for themselves or as the agent or agents for other purchasers, shall~~, on or before the tenth day of April, 1909,~~ choose an assayer ~~or assayers~~ who~~, for at least one year prior to the passage of this act, shall have~~ has operated an assay office on chemical laboratory within this state~~, and to such selected assayer or assayers~~ for at least 1 year. The person, association, or corporation shall ~~be submitted~~ submit to the

INTRODUCED BILL

selected assayer all samples of ore~~, sampled by such person, association, or corporation,~~ over which there is a dispute as to metallic contents or value between the buyer or sampler and the seller of ~~such~~ the ore. ~~Said~~ The chosen assayer ~~or assayers~~ shall be known as the umpire ~~or umpires~~ for ~~such~~ the person, association, or corporation."

Section 3. Section 50-205, R.C.M. 1947, is amended to read as follows:

"50-205. Notice of selection. Upon the selection of ~~such assayer or assayers~~ the umpire, who shall be actively engaged in the assaying business in this state, ~~every~~ the person, association, or corporation selecting ~~the same~~ him shall, within ~~ten~~ 10 days after ~~such choice~~ the selection is made, post a notice of ~~such choice, in which shall appear the name of the assayer or assayers so selected,~~ the selection in a conspicuous place ~~with~~ within and without the room or house where the sampling of ores is carried on by ~~such~~ the person, association, or corporation."

Section 4. Section 50-303, R.C.M. 1947, is amended to read as follows:

"50-303. ~~Purchasers~~ Statement by purchasers of ore from leased mines ~~to furnish statement. All persons~~ A person or ~~corporations~~ corporation buying or treating ores from leased mines or mining claims~~,~~ shall furnish ~~both to~~ the lessor and the lessee~~, or lessors and lessees,~~ of ~~such~~ the

mines or mining claims~~,~~ a true and correct copy of the statement of returns of ores from ~~such~~ the sale or shipment~~,~~. ~~such~~ The statement ~~to~~ shall show both the gross and net proceeds derived from ~~such~~ the sale or shipment of ores. Upon shipment of ~~any such~~ the ores from leased premises, either for sale or treatment, the shipper shall furnish to any sampling works or smelter buying or treating ~~same~~ them the ~~name, or~~ names~~,~~ and post-office ~~address~~ addresses of the lessor ~~or lessors,~~ and the lessee ~~or lessees,~~ interested in ~~such~~ that shipment of ores, and within ~~seven~~ 7 days after receipt of ~~such~~ the statement from ~~such~~ the sampling works or smelter~~,~~ the ~~said~~ shipper shall make settlement with ~~such~~ the lessor ~~or lessors;~~ and the lessee ~~or lessees,~~for ~~such~~ the shipment or sale of ores, based upon ~~such said~~ the statement received by the parties from ~~such~~ the sampling works or smelter."

Section 5. Section 50-304, R.C.M. 1947, is amended to read as follows:

"50-304. ~~Sampling works and smelters to mail~~ Copy of statement to lessee. ~~That all sampling~~ Sampling works and smelters within this state shall mail a duplicate copy of any statement showing the gross and net proceeds of all ores bought from or treated ~~from~~ for lessors of mines~~,~~ to the lessee ~~or lessees~~ of the mine or mining claim from which the ~~same shall have been~~ ores were extracted at the same time

~~such~~ the statement is furnished to the lessor of ~~said~~ the mine or mining claim or shipper of ~~such~~ the ore."

Section 6. Section 50-305, R.C.M. 1947, is amended to read as follows:

"50-305. Shipper — penalty for violation. ~~Any~~ A person or corporation who, as ~~such~~ the shipper, ~~shall violate the provisions of section~~ violates 50-303 ~~shall be~~ as amended, is liable to the lessor ~~or lessors,~~ and the lessee ~~or lessees,~~ for ~~ten per cent~~ 10% of the net returns from ~~such~~ the shipment~~,~~ or sale~~,~~ of ores referred to in ~~said~~ that section, in addition to the value of the interest of the lessor ~~or lessors,~~ and the lessee ~~or lessees~~ in ~~said~~ the shipment~~,~~. ~~the same to~~ This amount may be recovered in an action in any court of competent jurisdiction."

Section 7. Section 50-429, R.C.M. 1947, is amended to read as follows:

"50-429. Underground survey. For the underground working~~,~~ the map shall show all power distribution and ventilation in ~~maps~~ mines and all shafts, slopes, tunnels, or other openings to the surface or to the workings of a contiguous mine; all excavations, entries, rooms~~,~~ and crosscuts; the rise or dip of the seam from the bottom of the shaft, mouth of drift, or slope in either direction to the face of the workings; the location of the fan; the location of the permanent pumps, hauling engines,

engine-planes, and ~~fire-walls~~ fire walls; the location of any standing water which might prove a menace to life or danger to property from flood; and the line of any contiguous surface outcrop of the seam."

Section 8. Section 50-476, R.C.M. 1947, is amended to read as follows:

"50-476. ~~Duties of other employees~~ Safety regulations — mine examiners. (1) A person may not enter a mine which is generating firedamp ~~so as~~ in great enough quantities to be detected by a safety lamp until the mine examiners make a report to the division.

(2) A person, unless accompanied by the mine examiner, may not go beyond a danger signal until all standing gas discovered has been removed or diluted and rendered harmless by a current of air. A person~~, being~~ ordered to withdraw by the mine foreman or mine examiner from the mine on account of the interruption of the ventilation~~,~~ may not ~~re-enter~~ reenter the mine until given permission to do so by the mine foreman.

(3) A person other than the mine examiner may not remove any caution board or danger signal placed at the entrance to any working place~~,~~ or at the entrance to any old workings in a mine.

(4) A person may not erase or change a mark of reference or monument made in connection with a measurement~~,~~

, change marks or dates ~~or~~ on any caution board, or erase or change the dates at room or entry face, when made by the mine examiner, or take for his use a life check not issued to him under rules adopted by the division, or change the checks on cars, wrongfully check a car, or do any act with intent to defraud.

(5) A person may not take anything containing fire, except as provided for in rules adopted by the division, into an underground mine.

~~(5)~~ (6) A person may not place refuse in or obstruct an airway or breakthrough used as an airway. A worker or other person may not damage or alter a water gauge, barometer, air-course, brattice equipment, machinery, or livestock~~;~~, obstruct or throw open any airway~~;~~, handle or disturb any part of the machinery of the hoisting engine of a mine, open a door of a mine and neglect to close it~~;~~, endanger the miners or those working therein~~;~~, disobey an order given in pursuance of law, or do a willful act endangering the lives or health of persons working there or the security of a mine or machinery."

Section 9. Section 50-480.7, R.C.M. 1947, is amended to read as follows:

"50-480.7. ~~Order - no violation - abatement~~ Review of order. An operator notified of an order made under ~~section 50-480.2~~ 50-480.3, as amended, may apply to the division for

a hearing or revision of the order. If the division finds that there was no violation, it shall make an order rescinding the order under review. If the division finds that there was a violation, but the violation has since been abated, it shall make an order rescinding the order under review. If the division finds that the violation was not totally abated, it shall make an order consistent with its findings."

Section 10. Section 50-714, R.C.M. 1947, is amended to read as follows:

"50-714. Effect of patent. The issuance of a United States patent for a mining claim ~~shall be deemed~~ is considered conclusive evidence that the requirements of the laws of this state, relative to the location and record of such mining claim, have been duly complied with~~;~~, ~~provided, however, that where~~ However, if questions of priority are involved, the date of the location shall be an issuable fact ~~where~~ when it is claimed to have been prior to the date of the record of the location."

Section 11. Section 50-805, R.C.M. 1947, is amended to read as follows:

"50-805. ~~Commissioners to be appointed~~ Court order and appointment of commissioners. Upon the return of the summons, or upon any day to which the hearing is adjourned, the defendants may ~~demur or~~ answer, and issue must be

joined, and the judge must hear the allegations and proofs of the respective parties~~, and if~~. If, upon such hearing, ~~he~~ the judge is satisfied that the claims of the plaintiff can ~~only~~ be worked conveniently ~~worked~~ only by means of the privilege asked for, he must make an order adjudging and awarding to the plaintiff such ~~right of way,~~ right-of-way and must appoint three commissioners~~,~~ who are disinterested persons and residents of the county~~,~~ to assess the damages to the lands or claims affected by such order."

Section 12. Section 50-1043, R.C.M. 1947, is amended to read as follows:

"50-1043. ~~Reclamation operations submission~~ Submission and action on reclamation plan. (1) As rapidly, completely, and effectively as the most modern technology and the most advanced state of the art will allow, each operator granted a permit under this act~~,~~ shall reclaim and revegetate the land affected by his operation, except that underground tunnels, shafts, or other subsurface excavations need not be revegetated. Under the provisions of this act and rules adopted by the board, an operator shall prepare and carry out a method of operation, plan of grading, backfilling, highwall reduction, subsidence stabilization, water control, topsoiling, and a reclamation plan for the area of land affected by his operation. In developing a method of operation~~,~~ and plans of backfilling, subsidence

stabilization, water control, grading, highwall reduction, topsoiling, and reclamation, all measures shall be taken to eliminate damages to landowners and members of the public, their real and personal property, public roads, streams, and all other public property from soil erosion, subsidence, landslides, water pollution, and hazards dangerous to life and property.

(2) The reclamation plan shall set forth in detail the manner in which the applicant intends to comply with this section and ~~sections~~ 50-1044, 50-1045, and 50-1046, as amended. The plan shall be submitted to the department, and the department shall notify the applicant by certified or registered mail within ~~one hundred twenty (120)~~ days after receipt of the plan and complete application if it is or is not acceptable. The department may extend the ~~one hundred twenty (120)~~ days an additional ~~one hundred twenty (120)~~ days upon notification of the operator in writing. If the plan is not acceptable, the department shall set forth the reasons why the plan is not acceptable, and it may propose modifications, delete areas, or reject the entire plan. A ~~land owner~~ landowner, operator, or any person aggrieved by the decision of the department may~~,~~ by written notice~~,~~ request a hearing by the board. The board shall notify the person by certified or registered mail within ~~twenty (20)~~ days after the hearing of its decision. Every reclamation

plan shall be subject to annual review and modification.

~~(2)~~(3) In addition to the method of operation, grading, backfilling, subsidence stabilization, water control, highwall reduction, topsoiling, and reclamation requirements of this act and rules adopted under this act, the operator, consistent with the directives of subsection (1) of this section shall:

(a) bury under adequate fill all toxic materials, shale, mineral, or any other material determined by the department to be acid producing, toxic, undesirable, or creating a hazard;

(b) as directed by rules seal off~~, as directed by rules,~~ tunnels, shafts, or other openings or any breakthrough of water creating a hazard;

(c) impound, drain, or treat all runoff or underground mine waters so as to reduce soil erosion, damage to grazing and agricultural lands, and pollution of surface and subsurface waters;

(d) remove or bury all metal, lumber, and other refuse resulting from the operation;

(e) use explosives in connection with the operation only in accordance with department regulations designed to minimize noise, damage to adjacent lands, and water pollution~~,~~ and ensure public safety~~,~~ and for other purposes;

(f) adopt measures to prevent land subsidence unless

the board approves a plan for inducing subsidence into an abandoned operation in a predictable and controlled manner with measures for grading, topsoiling, and revegetating the subsided land surface. In order for a controlled subsidence plan to be approved, the applicant must show that subsidence will not cause a direct or indirect hazard to any public or private buildings, roads, facilities, or use areas~~;~~, constitute a hazard to human life or health~~;~~, constitute a hazard to domestic livestock or to a viable agricultural operation~~;~~, or violate any other restrictions the board may consider necessary~~;~~.

(g) stockpile and protect from erosion all mining and processing wastes until ~~such~~ these wastes can be disposed of according to the provisions of this act;

(h) deposit as much stockpiled waste material as possible back into the mine voids upon abandonment in such manner as to prevent or minimize land subsidence. The remaining waste material shall be disposed of as provided by this act and the rules of the board~~;~~.

(i) seal all portals, entryways, drifts, shafts, or other openings between the surface and underground mine workings upon abandonment.

~~(3)~~(4) An operator may not throw, dump, pile, or permit the dumping, piling, or throwing or otherwise placing any overburden, stones, rocks, mineral, earth, soil, dirt,

debris, trees, wood, logs, or any other materials or substances of any kind or nature beyond or outside of the area of land which is under permit and for which a bond has been posted under ~~section~~ 50-1039, as amended, or place the materials described in this section in such a way that normal erosion or slides brought about by natural physical causes will permit the materials to go beyond or outside of ~~the~~ that area of land ~~which is under permit and for which a bond has been posted under section 50-1039~~."

Section 13. Section 50-1203, R.C.M. 1947, is amended to read as follows:

"50-1203. Definitions. As used in this act, unless the context indicates otherwise, the following definitions apply:

(1) "Surface mining" ~~shall mean~~ means and ~~include~~ includes all or any part of the process involved in mining of minerals by removing the overburden and mining directly from the mineral deposits thereby exposed, including~~,~~ but not limited to~~,~~ open-pit mining of minerals naturally exposed at the surface of the earth, mining by the auger method, and ~~any and~~ all similar methods by which earth or minerals exposed at the surface are removed in the course of mining. Surface mining ~~shall~~ does not include the extraction of oil, gas, bentonite, clay, coal, sand, gravel, phosphate rock, or uranium ~~nor~~ or excavation or grading conducted for

on-site farming, on-site road construction, or other on-site building construction.

(2) "Unit of ~~surface-mined~~ surface-mined area" ~~shall mean~~ means and ~~include~~ includes that area of land and surface water included within an operating permit actually disturbed by surface mining during each ~~twelve-month~~ 12-month period of time, beginning at the date of the issuance of the permit, and ~~shall comprise~~ it comprises and ~~include~~ includes the area from which overburden ~~and/~~or minerals have been removed, the area covered by mining debris, and all additional areas used in surface mining or underground mining operations which~~,~~ by virtue of such use~~,~~ are thereafter susceptible to erosion in excess of the surrounding undisturbed portions of land.

(3) "Disturbed land" ~~shall mean~~ means and ~~include~~ includes that area of land or surface water disturbed, beginning at the date of the issuance of the permit, and ~~shall comprise~~ it comprises that area from which the overburden~~, and/~~or minerals have been removed~~;~~ and tailings ponds, waste dumps, roads, conveyor systems, leach dumps, and all similar excavations or covering resulting from ~~said~~ the operation and which ~~has~~ have not been previously reclaimed under the reclamation plan.

(4) "Abandonment of surface or underground mining" may be presumed when it is shown that continued operation will

not resume.

(5) "Underground mining" ~~shall mean~~ means and ~~include~~ includes all methods of mining other than surface mining.

(6) "Person" ~~shall mean~~ means and ~~include~~ includes any person, corporation, firm, association, partnership, or other legal entity engaged in exploration for or development or mining of minerals on or below the surface of the earth.

(7) "Mineral" ~~shall mean~~ means and ~~include~~ includes any ore, rock, or substance, other than oil, gas, bentonite, clay, coal, sand, gravel, phosphate rock, or uranium, taken from below the surface or from the surface of the earth for the purpose of milling, concentration, refinement, smelting, manufacturing, or other subsequent use or processing or for stockpiling for future ~~usage~~ use, refinement, or smelting.

(8) "Exploration" ~~shall mean~~ means and ~~include~~ includes all activities conducted on or beneath the surface of lands resulting in material disturbance of the surface for the purpose of determining the presence, location, extent, depth, grade, and economic viability of mineralization in those lands, if any, other than mining for production and economic exploitation, as well as all roads made for the purpose of facilitating exploration, except as noted in ~~section 20 [~~50-1220~~]~~ and ~~section 24 [~~50-1224~~]~~ ~~herein~~.

(9) "Development" ~~shall mean~~ means and ~~include~~

includes all operations between exploration and mining.

(10) "Mining" ~~shall be deemed to have commenced~~ commences at such time as the operator ~~shall~~ first ~~mine~~ mines ores or minerals in commercial quantities for sale, beneficiation, refining, or other processing or disposition or ~~shall~~ first ~~take~~ takes bulk samples for metallurgical testing in excess of aggregate of ~~ten thousand (~~10,000~~)~~ short tons.

(11) "Reclamation plan" ~~shall mean~~ means and ~~include~~ includes the operator's written proposal, as required and approved by the board, for reclamation of the land that will be disturbed, which proposal shall include, to the extent practical at the time of application for a developing or operating permit:

(a) a statement of the proposed subsequent use of the land after reclamation;

(b) ~~Plans~~ plans for surface gradient restoration to a surface suitable for the proposed subsequent use of the land after reclamation is completed, and the proposed method of accomplishment;

(c) ~~Manner~~ the manner and type of revegetation or other surface treatment of disturbed areas;

(d) ~~Procedures~~ procedures proposed to avoid foreseeable situations of public nuisance, endangerment of public safety, damage to human life or property, or

unnecessary damage to flora and fauna in or adjacent to the area;

(e) ~~Method~~ the method of disposal of mining debris;

(f) ~~Method~~ the method of diverting surface waters around the disturbed areas where necessary to prevent pollution of ~~such~~ those waters or unnecessary erosion;

(g) ~~Method~~ the method of reclamation of stream channels and stream banks to control erosion, siltation, and pollution;

(h) ~~Such~~ such maps and other supporting documents as may be reasonably required by the department; and

(i) ~~A~~ a time schedule for reclamation that meets the requirements of ~~section 9 [~~50-1209~~] of this act~~.

(12) "Vegetative cover" ~~as used in this act shall mean~~ means the type of vegetation, grass, shrubs, trees, or any other form of natural cover ~~deemed~~ considered suitable at time of reclamation.

(13) "Board" ~~shall mean~~ means the board of land commissioners~~,~~ or such state employee or state agency as may succeed to its powers and duties under this act.

(14) "Department" ~~shall mean~~ means the department of state lands.

(15) "Small miner" ~~shall mean any~~ means a person, firm, or corporation engaged in the business of mining who does not remove from the earth during any ~~twenty-four (24)~~

24-hour period material in excess of ~~one hundred (~~100~~)~~ tons in the aggregate."

Section 14. Section 50-1209, R.C.M. 1947, is amended to read as follows:

"50-1209. Reclamation plan ~~—accomplishment of specific activities~~ and specific reclamation requirements. ~~(a)~~ (1) The reclamation plan shall provide that reclamation activities, particularly those relating to control of erosion, ~~shall,~~ to the extent feasible, shall be conducted simultaneously with mining and in any case shall be initiated promptly after completion or abandonment of mining on those portions of the mine complex that will not be subject to further disturbance by the mining operation. In the absence of an order by the board providing a longer period, the plan shall provide that reclamation activities shall be completed not more than ~~two (~~2~~)~~ years after completion or abandonment of mining on ~~said~~ that portion of mine complex.

~~(b)~~ (2) In the absence of emergency or suddenly threatened or existing catastrophe, an operator may not depart from an approved plan without ~~having~~ previously ~~obtained~~ obtaining from the department written approval of his proposed change.

~~(c)~~ (3) Provision shall be made to avoid accumulation of stagnant water in the mined area which may serve as a host or breeding ground for mosquitoes or other

disease-bearing or noxious insect life.

~~(d)~~(4) All final grading shall be made with nonnoxious, nonflammable, noncombustible solids unless approval has been granted by the board for a supervised sanitary fill.

~~(e)~~(5) Where mining has left an open pit exceeding ~~two (2)~~ acres of surface area~~,~~ and the composition of the floor ~~and/~~or walls of ~~which~~ the pit are likely to cause formation of acid, toxic, or otherwise pollutive solutions (hereinafter "objectionable effluents") on exposure to moisture, the reclamation plan ~~must~~ shall include provisions which adequately provide for:

~~(1)~~(a) ~~Insulation~~ insulation of all faces from moisture ~~of~~ or water contact by covering to a depth of ~~two (2)~~ feet or more with material or fill not susceptible itself to generation of ~~such~~ objectionable effluents; ~~or~~

~~(2)~~(b) ~~Processing~~ processing of any ~~such~~ objectionable effluents in the pit before their being allowed to flow or be pumped out of it to reduce toxic or other objectionable ratios to a level ~~deemed~~ considered safe to humans and the environment by the board; ~~or~~

~~(3)~~(c) ~~Drainage~~ drainage of any ~~such~~ objectionable effluents to settling or treatment basins when the objectionable effluents must be reduced to levels ~~deemed~~ considered safe by the board before release from the

settling basin; or

~~(4)~~(d) ~~Absorption and/~~ absorption or evaporation of objectionable effluents in the open pit itself; and

~~(5)~~(e) ~~Prevention~~ prevention of entrance into the open pit by persons or livestock lawfully upon adjacent lands by fencing, warning signs, and such other devices as may reasonably be required by the board.

~~(f)~~(6) ~~Vegetative~~ Provisions for vegatative cover ~~will~~ shall be required in the reclamation plan if appropriate to the future use of the land as specified in the reclamation plan.

~~(g)~~(7) The reclamation plan shall provide for the reclamation of all disturbed land. Proposed reclamation need not reclain the areas to a better condition or different use than that which existed prior to development or mining.

~~(h)~~(8) A reclamation plan ~~will~~ shall be approved by the board if it adequately provides for the accomplishment of the activities ~~heretofore~~ specified in this section."

Section 15. Section 50-1404, R.C.M. 1947, is amended to read as follows:

"50-1404. Approved strip-mining plan required ~~for strip mining period for which~~ — effective period. (1) No operator may engage in strip mining without ~~having~~ first ~~obtained~~ obtaining approval of a ~~strip mining~~ strip-mining plan from the department as provided for in ~~section 5~~

~~[~~50-1405~~]~~, as amended.

(2) Approved ~~strip-mining~~ strip-mining plans shall be effective for ~~two (2) years from the date of commencing the operation or one (1)~~ year from the date the plan is approved~~, whichever occurs first~~."

Section 16. Section 50-1503, R.C.M. 1947, is amended to read as follows:

"50-1503. Contracts for reclamation ~~of open-cut mining land enforcement of contracts~~. The ~~state~~ board ~~of land commissioners~~ is hereby authorized to enter into contracts with operators in the name of the state of Montana ~~with operators~~ which will provide for the reclamation of lands on which ~~open-cut~~ opencut mining of bentonite, clay, scoria, phosphate rock, sand, and gravel has been or is to be conducted. The ~~state~~ board ~~of land commissioners~~ is authorized to sue and be sued in the name of the state of Montana to enforce the provisions of any contract, and ~~said~~ the board shall bring such court actions and take such other steps and actions as may be necessary to enforce the provisions of such contracts."

Section 17. Section 50-1504, R.C.M. 1947, is amended to read as follows:

"50-1504. Definitions.

When used in this act, unless a different meaning clearly

appears from the context, the following definitions apply:

(1) "Contract" means a mined land reclamation contract prepared by the ~~commission~~ board to meet the requirements of this act.

(2) "~~Open-cut~~ Opencut mining" means the mining of bentonite, clay, scoria, phosphate rock, sand, or gravel by removing the overburden lying upon natural deposits thereof~~,~~ and mining directly from the natural deposits thereby exposed, including the removal of overburden for the purpose of determining the location, quality, or quantity of any natural deposit of bentonite, clay, scoria, phosphate rock, sand, or gravel.

(3) "Reclamation" means the reconditioning of the area of land affected by ~~open-cut mining~~ opencut-mining operations to make the area suitable for productive use, including but not limited to, forestry, agriculture, grazing, wildlife, recreation, or residential and industrial sites.

(4) "Overburden" means all of the earth and other materials which lie above a natural deposit of bentonite, clay, scoria, phosphate rock, sand, or gravel. "Spoil" is the overburden disturbed from its natural state in the process of ~~open-cut~~ opencut mining.

(5) "Operator" means ~~any~~ a person engaged in and controlling an ~~open-cut mining~~ opencut-mining operation.

(6) "Affected land" means the area of land from which overburden is to be or has been removed and upon which the overburden is to be or has been deposited.

(7) "~~Commission~~ Board" means the state board of land commissioners.

(8) "Person" means ~~any~~ a natural person~~,~~ or ~~any~~ a firm, association, partnership, cooperative, or corporation or any department, agency, or instrumentality of the state or any governmental subdivision~~,~~ or any other entity ~~whatsoever~~ whatever.

(9) "Landowner" means the owner of land directly or indirectly affected by an ~~open-cut-mining~~ opencut-mining operation.

(10) "Public notice" means notice given by publication in a newspaper in the general area where the affected land is located. ~~Such~~ The notice shall be given once a week for ~~three (3)~~ successive weeks.

(11) "Soils materials" are those horizons containing topsoil or other soils leached free of deleterious salts and capable of sustaining plant growth and recognized as such by standard authorities.

(12) "Refuse" means all waste material directly connected with the ~~open-cut-mining~~ opencut-mining operations.

(13) "Final cut" means the last pit created in an ~~open-cut-mined~~ opencut-mined area.

(14) "~~High-wall~~ Highwall" means that side of the pit adjacent to unmined land.

(15) "Reclamation plan" means the description of current land use, topographical data, water data, soils data, leased areas, intended mine areas, and ~~description of~~ an explanation of proposed reclamation of the land with appropriate maps.

(16) "Progress report" means a report showing the land which the operator has affected by ~~open-cut~~ opencut mining during the year. ~~Such~~ The report shall show the number of acres of affected land and all reclamation accomplished."

Section 18. Section 50-1505, R.C.M. 1947, is amended to read as follows:

"50-1505. Administration ~~of act~~ — delegation of functions. The ~~commission~~ board is the administrator of this act and it has all the power necessary to implement and enforce it. The ~~commission~~ board may delegate to the commissioner of state lands such powers, duties, and functions under this act as it ~~deems~~ considers necessary for the performance of its duties."

Section 19. Section 50-1506, R.C.M. 1947, is amended to read as follows:

"50-1506. Powers, duties, and functions of ~~commission~~ board. The ~~commission~~ board has the following powers,

duties, and functions to:

(1) ~~to~~ enter into contracts where it is found on the basis of the information set forth in the application and an evaluation of the operation by the ~~commission~~ board that the requirements of the act or rules will be observed and that the operation and the reclamation of the affected area can be carried out ~~consistent~~ consistently with the purpose of the act;

(2) ~~to~~ prepare and adopt rules ~~and regulations~~ pertaining to ~~open-cut~~ opencut mining to accomplish the purposes of this act;

(3) ~~to~~ conduct hearings and, for the purposes of conducting such hearings, ~~to~~ administer oaths and affirmations, ~~to~~ subpoena witnesses, ~~to~~ compel attendance of witnesses, ~~to~~ hear evidence, and ~~to~~ require the production of any books, papers, correspondence, memoranda, agreements, documents, or other records relevant or material to the inquiry;

(4) ~~to~~ adopt uniform procedures for the filing of necessary records, the issuance of contracts, and for any other matters of administration not specifically enumerated in this act;

(5) ~~to~~ reclaim any affected land with respect to which a bond has been forfeited; and

(6) ~~to~~ make investigations or inspections which ~~may be~~

~~deemed~~ are considered necessary to insure compliance with any ~~provisions~~ provision of this act."

Section 20. Section 50-1507, R.C.M. 1947, is amended to read as follows:

"50-1507. Contract for reclamation required ~~for large open-cut operations. From and after~~ After ~~the effective date of this act~~ March 16, 1973, no operator ~~shall~~ may conduct ~~open-cut mining~~ opencut-mining operations which ~~shall~~ will result in the removal of ~~ten thousand (10,000)~~ cubic yards~~,~~ or more~~,~~ of product or overburden~~,~~ until he has entered into a contract with the ~~commission~~ board for the reclamation of the land affected. ~~Any~~ An operator conducting a number of operations, each of which result in the removal of less than ~~ten thousand (10,000)~~ cubic yards of product or overburden but which result in the removal of ~~ten thousand (10,000)~~ cubic yards~~,~~ or more~~,~~ of product or overburden in the aggregate ~~shall be~~ is subject to the provisions of this act."

Section 21. Section 50-1508, R.C.M. 1947, is amended to read as follows:

"50-1508. Application for contract — contents — issuance ~~of contract~~ — amendment ~~— withdrawal of land.~~ (1) Applications for a contract shall be made upon a form furnished by the ~~commission~~ board, which form ~~contains~~ shall contain the following:

~~(1)~~ (a) the name of the operator and, if other than the owner of the land, the name and address of the owner~~.~~;

~~(2)~~ (b) the type of operation to be conducted;

~~(3)~~ (c) the volume of earth to be removed, as accurately as the ~~same~~ volume may then be estimated, and the volume which has been previously removed, if any;

~~(4)~~ (d) the location of the operation by legal subdivision, section, township and range, and county;

~~(5)~~ (e) the date when ~~such~~ the operation was or will be commenced; and

~~(6) the operator must submit a plan of his operation and the method and manner of reclamation that will be used or followed. If the operator, prior to applying for a contract, notifies the commission of his intention to submit a plan, and requests the commission to examine the area to be mined, the commission shall cause the area to be examined and make recommendations to the operator regarding reclamation;~~

~~(7)~~ (f) a statement that the applicant has the right and power by legal estate owned to mine by ~~open cut~~ opencut mining the lands so described~~;~~.

~~(8)~~ (2) ~~the~~ The application shall be accompanied by:

(a) a bond or security meeting the requirements as set out in this act~~, and~~;

(b) a fee of ~~fifty dollars ($50)~~; and

(c) the operator's plan of his operation and the method and manner of reclamation that will be used or followed.

(3) If, prior to applying for a contract, the operator notifies the board of his intention to submit a plan and requests the board to examine the area to be mined, the board shall cause the area to be examined and make recommendations to the operator regarding reclamation.

(4) Upon receipt of ~~such~~ the application, bond or security, and fee due from the operator~~,~~ and upon agreement to the terms of the contract by the parties, the ~~commission~~ board may issue a contract to the applicant which ~~shall entitle~~ entitles him ~~thereafter~~ to continue in or engage in ~~open cut~~ opencut mining ~~or~~ on the land therein described~~;~~.

~~(9)~~ (5) ~~an~~ An operator desiring to have his contract amended to cover additional contiguous or nearby land may file an amended application with the ~~commission~~ board. Upon receipt of the amended application~~,~~ and such additional bond as may be required~~,~~ and upon agreement to the terms of the amendment by the parties, the ~~commission~~ board may issue an amendment to the original contract covering the additional land described in the amended application~~,~~ without the payment of any additional fee~~;~~.

~~(10)~~ (6) ~~an~~ An operator may withdraw any land covered by contract, except affected land, by notifying the

~~commission~~ board thereof, in which case the penalty of the bond or security filed by ~~such~~ the operator pursuant to the provisions of this act shall be reduced proportionately."

Section 22. Section 50-1509, R.C.M. 1947, is amended to read as follows:

"50-1509. ~~Terms of bond required deposit in lieu of bond substitution of bond forfeiture release~~ Bond. (1) ~~Any~~ A bond required to be filed in this act by the operator shall be in such form as the ~~commission prescribed~~ board prescribes, payable to the state of Montana~~,~~ and conditioned upon the operator's full compliance with all requirements of this act and all rules ~~and regulations~~ of the ~~commission~~ board. ~~Such~~ The bond shall be signed by the landowner or operator, as appropriate, as principal, and by a good and sufficient corporate surety~~,~~ licensed to do business in the state of Montana, as surety. The penalty of ~~such~~ the bond shall be in an amount not to exceed the costs of restoration required by this act as determined by the ~~commission,~~ board but ~~shall~~ may not be less than ~~two hundred dollars ($200) nor~~ or more than ~~one thousand dollars ($1,000)~~ per acre.

(2) In lieu of ~~such~~ the bond, the operator may deposit with the board cash and government securities or a bond with property sureties ~~with the commission~~ in an amount equal to that of the required bond on conditions as above prescribed. In the discretion of the ~~commission~~ board, surety bond

requirements may be fulfilled by the operator's posting a bond with land and improvements and facilities thereon as security, in which event no surety ~~shall~~ may be required. The penalty of the bond or amount of cash and securities shall be increased or reduced from time to time as provided in this act. ~~Such~~ The bond or security ~~shall be and remain~~ remains in effect until the mined acreages have been reclaimed~~,~~ as provided under the contract~~,~~ and the reclamation has been approved and the bond or security has been released by the ~~commission,~~ board, ~~and shall from time to time~~ The bond or security shall cover only actual mined acreages and may be increased or reduced to cover only such acreages as ~~remained~~ remain unreclaimed.

(3) If the license ~~to do business in the state~~ of ~~any~~ a surety upon a bond filed with the ~~commission~~ board pursuant to this act ~~shall be~~ is suspended or revoked, the operator, within ~~thirty (30)~~ days after receiving notice thereof from the ~~commission~~ board, shall substitute for ~~such~~ that surety a good and sufficient surety licensed to do business in the state. Upon failure of the operator to make substitution of surety, the ~~commission shall have the right to~~ board may suspend the contract of the operator to conduct operations upon the land described in ~~such~~ the contract until ~~such~~ the substitution has been made.

(4) The ~~commission~~ board shall cause ~~to be reclaimed~~

the reclamation of any affected land with respect to which a bond has been forfeited.

(5) Whenever an operator ~~shall have completed~~ has completed all of the requirements under the provisions of this act as to any affected land, he shall notify the ~~commission~~ board thereof. If the ~~commission shall release~~ board releases the operator from further obligation regarding such affected land, the penalty of the bond shall be reduced proportionately."

Section 23. Section 50-1510, R.C.M. 1947, is amended to read as follows:

"50-1510. ~~Contract requirements--performance bond--effective period of contract~~ Reclamation plan part of contract -- requirements. The contract shall meet the following requirements:

(1) The operator shall submit a reclamation plan to the ~~commission~~ board before commencing any ~~open-cut~~ opencut mining~~,~~ and may not commence mining before ~~it~~ the plan receives approval from the ~~commission~~ board. The operator may request and receive a meeting with the ~~commission~~ board prior to submission of the plan. If the ~~commission~~ board does not notify the operator that it has approved or disapproved a plan within ~~thirty (30)~~ days after the ~~commission~~ board has received the plan, the ~~commission shall be deemed~~ board is considered to have approved the plan. The

~~commission~~ board, however, ~~may~~ for sufficient cause, may extend its period of consideration for an additional ~~thirty (30)~~ days if it notifies the operator prior to the end of the original ~~thirty (30) day~~ 30-day period. The ~~commission~~ board shall submit ~~all~~ each reclamation ~~plans~~ plan or amendments to the reclamation plan to the landowner for his recommendations and shall consider those recommendations in deciding whether to approve or disapprove any plan or amendments. The ~~commission~~ board may seek technical help from any state or federal agency. The ~~commission must~~ board shall submit the plan immediately to the director~~,~~ of the university of Montana statewide archaeological survey for evaluation of possible archaeological or historical values in the area to be mined. The ~~commission~~ board may approve a reclamation plan only if the ~~commission~~ board has found that the plan provides for the best possible reclamation procedures available under the circumstances at the time, so that after mining operations are completed the affected land ~~shall~~ will be reclaimed to a productive use. Once the reclamation plan ~~has been~~ is accepted in writing by the ~~commission~~ board, it shall become a part of the contract but ~~shall be~~ is subject to annual review and modification by the ~~commission~~ board.

(2) The ~~commission~~ board may not approve any reclamation plan unless the plan provides ~~that~~:

(a) that the land will be reclaimed for one or more specified uses, including but not limited to~~:~~ forest, pasture, orchard, cropland, residence, recreation, industry, habitat for wildlife, ~~(~~including food, cover, or water~~)~~, ~~for wildlife~~ or other uses;

(b) that to the extent reasonable and practicable, the operator ~~shall~~ will establish vegetative cover commensurate with the proposed land use;

(c) ~~where~~ whenever operations result in a need to prevent acid drainage or sedimentation~~,~~ on or in adjoining lands or streams, ~~there shall be provisions~~ for the construction of earth dams or other reasonable devices to control water drainage, provided the formation of such impoundments or devices will not interfere with other landowners' rights or contribute to water pollution;

(d) that to accomplish practical utilization of soil materials, such material will be utilized for placement on affected areas, if required by the reclamation plan after completion or termination of that particular phase of the mining operations, at a depth sufficient for plant growth on slopes of 3:1 or less~~.~~;

(e) ~~Grading specifications shall~~ that grading will be commensurate with the topography sought and land use designated;

~~(e)~~(f) that metal and other waste ~~shall~~ will be

removed or buried;

~~(f)~~(g) that all access, haul, and other support roads ~~shall~~ will be located, constructed, and maintained in such a manner as to control and minimize channeling and other erosion;

~~(g)~~(h) that the operator ~~shall~~ will submit a progress report annually to the ~~commission a progress report~~ board;

~~(h)~~(i) that all operations ~~shall~~ will be conducted so as to avoid range and forest fires and spontaneous combustion~~. Open~~ and that open burning of carbonaceous materials ~~shall~~ will be in accordance with suitable practices for fire prevention and control;

~~(i)~~(j) that archaeological and historical values in areas to be mined ~~shall~~ will be given appropriate protection;

~~(j)~~(k) that except for rock faces, bench faces, and excavations used for water impoundments, each surface area of the mined premises which will be disturbed ~~shall~~ will be revegetated when its use for extractive purposes is no longer required~~.~~;

(l) ~~Seeding~~ that seeding and planting ~~shall~~ will be done in a manner to achieve a permanent suitable vegetative cover for wildlife, livestock, and retardation of erosion~~. All~~ and that all seed will be drilled unless otherwise provided in the plan;

~~(k)~~ (m) that reclamation ~~shall~~ will be as concurrent with mining operations as feasible~~,~~ and ~~must~~ will be completed within a specified length of time.

(3) If reclamation according to the plan has not been completed in the time specified, the ~~commission shall~~ board after ~~thirty (30)~~ days' written notice shall order the operator to cease mining~~,~~ and, if the operator does not cease, shall institute an action to enjoin further operation and may sue for damages for breach of contract, for payment of the performance bond, or for both.

(4) (a) At any time during the period of reclamation the operator may for good reason submit to the ~~commission~~ board a new reclamation plan or amendment to the existing plan~~,~~ including extensions of time.

(b) The ~~commission~~ board may approve the proposed new reclamation plan~~,~~ or amendments to the existing plan if:

(i) the operator has in good faith carried on reclamation according to the existing plan~~,~~ and ~~(ii)~~ the proposed new plan~~,~~ or amendments to the existing plan~~,~~ will result in reclamation as or more desirable ~~or more so~~ than the reclamation proposed under the existing plan~~,~~; or

~~(iii)~~ (ii) it is highly improbable reclamation will be successful unless the existing plan is replaced or amended.

(c) When accepted, the proposed new reclamation plan or the proposed amendments to the existing plan ~~becomes~~

become a part of the contract.

(5) The operator shall provide a performance bond~~,~~ or an alternative acceptable to the ~~commission,~~ board in an amount commensurate with the estimated cost of reclamation, but in no case ~~shall~~ may the bond be less than ~~two hundred dollars ($200)~~ per acre. The estimated cost of reclamation shall be set forth in the reclamation plan.

(6) The contract, reclamation plan~~,~~ and amendments accepted by the ~~commission~~ board shall be a public record and open to inspection.

(7) The contract shall become effective when signed by the ~~commission~~ board and the operator~~,~~ and shall remain in force until terminated by mutual consent or by the ~~commission~~ board upon ~~six (6) months'~~ 6-months' notice."

Section 24. Section 50-1511, R.C.M. 1947, is amended to read as follows:

"50-1511. Receipt ~~of funds by commission - reclamation work - by commission~~ and expenditure of funds. (1) The ~~commission~~ board may receive any federal funds, state funds~~,~~ or any other funds for the reclamation of land affected by ~~open-cut~~ opencut mining. The ~~commission~~ board may cause the reclamation work to be done by its own employees or by employees of other governmental agencies, soil conservation districts~~,~~ or through contracts with qualified persons.

(2) Any funds or any public works programs available

to the ~~commission~~ board shall be used and expended to reclaim and rehabilitate any lands that have been subject to ~~open-cut~~ opencut mining that have not been reclaimed and rehabilitated in accordance with the standards of this act."

Section 25. Section 50-1512, R.C.M. 1947, is amended to read as follows:

"50-1512. Inspection of ~~open-cut~~ opencut mining by ~~commission~~ board. The ~~commission,~~ board or its accredited representatives, may enter upon lands subjected to ~~open-cut~~ opencut mining at all reasonable times for the purpose of inspection, to determine whether the provisions of this act have been complied with."

Section 26. Section 50-1513, R.C.M. 1947, is amended to read as follows:

"50-1513. Operation without contract ~~as misdemeanor~~ — penalty. Anyone required by this act to have a contract and who engages in ~~open-cut~~ opencut mining without previously securing a contract to do so as prescribed by this act is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than ~~five hundred dollars ($500)~~ and not more than ~~one thousand dollars ($1,000)~~. Each day of operation without a contract required by this act ~~shall be deemed~~ is a separate violation."

Section 27. Section 50-1514, R.C.M. 1947, is amended to read as follows:

"50-1514. Reclamation of land on which bond forfeited. ~~The commission shall have the power to~~ In keeping with the provisions of this act, the board may reclaim~~, in keeping with the provisions of this act,~~ any affected lands with respect to which a bond has been forfeited."

Section 28. Section 50-1515, R.C.M. 1947, is amended to read as follows:

"50-1515. ~~Commission~~ Board hearing ~~on final order of commissioner—judicial review~~. (1) A person who is aggrieved by a final decision of the commissioner of state lands is entitled to a hearing before the ~~commission~~ board.

(2) The Montana Administrative Procedure Act ~~(title~~ Title 82, chapter 42, R.C.M. 1947) governs hearings before the ~~commission~~ board and judicial review of decisions of the ~~commission~~ board under this act."

Section 29. Section 50-1516, R.C.M. 1947, is amended to read as follows:

"50-1516. Exemption ~~of~~ — operations covered by ~~other law~~ metal mine reclamation. Nothing in this act ~~shall~~ may be construed to be applicable to mining or exploration operations which are regulated under the provisions of Title 50, chapter 12, R.C.M. 1947."

Section 30. Section 50-1516.1, R.C.M. 1947, is amended to read as follows:

"50-1516.1. ~~Exceptions~~ Chapter inapplicable to state

and local government. The provisions of this chapter relating to fees or bonds ~~shall~~ do not apply to the state of Montana, counties, cities, or towns."

Section 31. Section 50-1517, R.C.M. 1947, is amended to read as follows:

"50-1517. Exemption ~~of~~ — operations on federal lands. This chapter ~~shall not be~~ is not applicable to operations on certain federal lands as specified by the board, provided it is first determined by the board that federal law or regulations issued by the federal agency administering ~~such~~ the land, impose controls for reclamation of ~~said~~ those lands equal to or greater than those imposed by this chapter."

Section 32. Section 60-227, R.C.M. 1947, is amended to read as follows:

"60-227. Petroleum and liquefied petroleum meter license fees. A petroleum or liquefied petroleum dealer shall pay license fees as follows:

(1) ~~All~~ for petroleum vehicle tank meters and bulk petroleum meters of ~~two and one-half (~~2 1/2~~)~~ inches and under, ~~six dollars ($6),~~;

(2) ~~All two and one-half (2 1/2)~~ for 2 1/2 inch and under petroleum meters for more than one fluid, ~~ten dollars ($10),~~;

(3) ~~All~~ for bulk petroleum meters over ~~two and~~

~~one-half (~~2 1/2~~) inch~~ inches, ~~ten dollars ($10),~~;

(4) ~~All~~ for petroleum meters over ~~two and one-half (~~2 1/2~~) inch~~ inches for more than one fluid, ~~fifteen dollars ($15),~~ ; and

(5) ~~All~~ for liquefied petroleum liquid meters, ~~fifteen dollars ($15).~~"

Section 33. Section 60-606, R.C.M. 1947, is amended to read as follows:

"60-606. Expenses of representative. The representative, or the assistant representative appointed by the governor of the state of Montana, to the oil compact commission shall be allowed and paid his reasonable expenses while engaged in the performance of his official duties, and ~~said~~ his expenses and all other expense incurred in connection with the ~~said~~ interstate oil compact and ~~said~~ the interstate oil compact commission shall be paid out of the ~~oil conservation board~~ board of oil and gas conservation revenue fund in accordance with the provisions of ~~60-121~~ 60-145, as amended."

Section 34. Section 69-3303, R.C.M. 1947, is amended to read as follows:

"69-3303. ~~Filing of notice~~ Notice of intention to ~~engage in geophysical exploration~~ explore. ~~It shall be necessary for any~~ A person, firm, or corporation desiring to engage in ~~such~~ geophysical exploration within the state of

Montana~~, prior to actually so engaging in such exploration, to~~ shall file a notice of intention to engage in ~~such geophysical~~ the exploration with the county clerk and recorder in each county in which exploration is to be carried on~~,~~ or engaged in. The ~~said~~ notice ~~of intention to engage in such geophysical exploration~~ shall be filed prior to the actual commencement of ~~such geophysical~~ the exploration."

Section 35. Section 69-3305, R.C.M. 1947, is amended to read as follows:

"69-3305. ~~Issuance of geophysical exploration permit—requirements—contents—period valid for—costs—carrying of permit~~ Exploration permit. ~~The county clerk and recorder of each county in the state of Montana,~~

(1) ~~upon~~ Upon compliance with the provisions herein contained, namely the filing of a notice of intention to engage in ~~such geophysical~~ the exploration~~, in addition to~~ and a certificate (or photostatic copy thereof) from the secretary of ~~the~~ state ~~of Montana~~ certifying the name and address of the resident agent for service of process for ~~said~~ the person, firm, or corporation desiring to engage in ~~such geophysical~~ the exploration~~,~~ and certifying that the required surety bond has been filed with the ~~said~~ secretary of state, ~~shall issue~~ the county clerk and recorder shall issue to ~~such~~ the person, firm, or corporation a

"geophysical exploration permit~~,~~".

(2) ~~which~~ The permit ~~will~~ shall show:

(a) the ~~names~~ name of the person, firm, or corporation~~; his or its~~ and principal place of business;

(b) if a firm or corporation, the names and addresses of its officers;

(c) the name and address of the resident agent for service of process for ~~said~~ the person, firm, or corporation;

(d) that a notice of intention to engage in ~~such~~ geophysical exploration has been duly filed; and

(e) that a good and sufficient surety bond has been filed by the ~~said~~ person, firm, or corporation, naming the surety company and giving its address~~;~~.

(3) ~~such~~ The permit ~~to~~ shall be signed by the county clerk and recorder ~~and/~~or his deputy~~,~~ and ~~bearing~~ bear the official county seal. ~~Such~~ The permit shall be valid and effective for all ~~such~~ geophysical crews of the permittee during the calendar year in which it is issued.

(4) The cost of the ~~said~~ permit shall be ~~five dollars ($5.00)~~ per calendar year or any portion thereof for which issued, and the revenues realized therefrom shall go to the county so issuing. Such funds as are realized shall be applied toward payment of the cost of printing ~~said~~ the permits, which shall be printed at the county seat, and ~~such~~

excesses shall~~, from year to year,~~ go into the county's general fund~~;~~. ~~provided, however, that if~~

(5) If printed forms are not available at the time any person, firm, or corporation desires ~~such~~ the permit and qualifies for its issuance, typewritten or other form of reproduction of ~~such~~ the permit may be used ~~and~~, the fee of ~~five dollars ($5.00)~~ nevertheless shall ~~nevertheless~~ be paid for its issuance, and ~~such~~ this fee shall be disposed of in the same manner.

(6) The ~~said~~ permit or a photostatic copy thereof shall be carried by the person~~,~~ or by the agent of the firm or corporation~~,~~ at all times during the period of ~~such~~ the geophysical exploration and shall be exhibited upon demand ~~by~~ of any county or state official."

Section 36. Section 73-115, R.C.M. 1947, is amended to read as follows:

"73-115. Action to compel release~~--damages--attorney's fees--release without suit. Should the owner of such lease neglect or refuse~~ (1) If the lessee or assignee thereof neglects or refuses to execute a release as provided by this act, ~~then~~ the owner of the leased premises may sue in any court of competent jurisdiction to obtain ~~such~~ the release, and in such action he also may ~~also~~ recover ~~in such action of~~ from the lessee, his successor, or assigns~~,~~ the sum of ~~one hundred dollars ($100.00)~~ as damages, ~~and~~ all

costs, together with a reasonable attorney's fee for preparing and prosecuting the suit, and ~~he may also recover~~ any additional damages that the evidence in the case ~~will warrant~~ warrants. ~~In all such actions writs~~ Writs of attachment may issue as in other cases. If~~,~~ in ~~such~~ the action~~,~~ the plaintiff fails to establish the forfeiture of the lease, an attorney's fee must be allowed to the ~~holder~~ lessee or assignee of the lease. Issues in regard to ~~such~~ attorney's fees shall be determined in the same manner as other issues in such actions.

(2) When, by its terms, ~~any such~~ an oil ~~and/~~or gas lease has expired and is subject to forfeiture for nonperformance and more than ~~three (3)~~ years ~~has~~ have elapsed since ~~said~~ the expiration, the owner of the leased premises ~~may~~, in addition to all other remedies, may serve a written notice on ~~said~~ the lessee or on the assignee thereof, which notice shall state:

(a) the ~~name~~ names of the lessor, ~~the~~ lessee, and ~~the~~ assignee thereof if assigned;

(b) the date of the lease~~;~~ and the date of the expiration thereof;

(c) the description of the lands leased;

(d) the place, book, and page where the lease is recorded; and ~~shall state that unless said lease or abstract of such lease is released of record, or~~

(e) that if the lessee or assignee fails to execute a release of record of the lease or abstract of the lease, the lease shall be terminated and of no effect and shall cease to be a lien upon the lands described therein, unless the lessee or the assignee thereof ~~shall~~, within ~~sixty (60)~~ days from the date of service ~~thereof, file an affidavit~~ of the notice, files, in the county clerk's office in the county ~~wherein such~~ where the lease or abstract of such lease is recorded, an affidavit stating that the lease is in effect and ~~deliver~~ delivers a copy thereof to the owner of the leased lands ~~stating that said lease is in effect, otherwise, said lease shall be terminated and of no effect and shall cease to be a lien upon the lands described therein~~.

(3) If the lessee ~~of~~ or the assignee thereof resides in the county where ~~said~~ the lease or abstract of ~~such~~ the lease is recorded, the notice shall be personally served on ~~said~~ that person ~~or persons~~. If ~~said~~ the lessee or the assignee thereof does not reside in ~~said~~ that county~~,~~ but his~~, her or its~~ address appears on the records in that county clerk's office~~,~~ or is otherwise known, ~~such~~ the notice shall be mailed by ~~registered~~ certified mail to ~~such~~ that person~~, or persons,~~ at ~~such~~ that address, and in addition thereto~~, such~~ the notice shall be published once a week for ~~two~~ 2 consecutive weeks in a newspaper of general

circulation in the county in which ~~said~~ the lands are situated~~,~~. ~~and said notice shall likewise be published in the manner as above provided if~~ If the address of the lessee or assignee is unknown~~,~~, the notice shall be published in the manner provided above. The date of service of ~~said~~ the notice, if served personally~~;~~, the date of mailing, if served by mail~~;~~, and the first date of publication of ~~said~~ the notice, if published, must be at least ~~sixty (60)~~ days before the date of termination referred to in ~~said~~ the notice.

(4) Upon the expiration of the time mentioned in ~~said~~ the notice, if the affidavit of the lessee or assignee has not been filed as herein provided, the owner of the leased lands shall file an affidavit ~~or~~ of service ~~thereof~~ of the notice in the county clerk's office of ~~said~~ the county in which the lands are located, and the affidavit shall be kept as a permanent file in his office, and ~~such~~ this proof of notice when so filed ~~shall be~~ is prima facie evidence of the sufficiency of the notice, and from ~~and after~~ the filing thereof ~~said~~ the lease ~~shall be~~ is terminated and the lands released from the lien thereof."

-End-

45th LEGISLATIVE SESSION

COMMITTEE ON Business and Industry

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO NOT PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON-CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON-CURRED IN DATE
HB 17	1/19/77	2/22/77	2/22/77				2/22/77		
HB 40	1/22/77	2/22/77	2/22/77				2/22/77		
HB 41	1/22/77	2/22-3/7	3/7/77				3/7/77		
HB 42	1/19/77	2/22-3/10	3/10/77				3/10/77		
HB 71	2/2/77	2/24/77	2/24/77				2/24/77		
HB 171	2/5/77	3/3-3/14	3/14/77					3/14/77	
HB 196	2/17/77	3/3/77	3/3/77					3/3/77	
HB 214	2/2/77	2/24-/3/10	3/10/77				3/10/77		
HB 245	1/31/77	3/15/77	3/15/77	WITHOUT RECOMMENDATION					
HB 304	2/10/77	3/24-3/26	3/26/77					3/26/77	
HB 308	2/2/77	2/24-3/10	3/10/77				3/10/77		
HB 337	2/17/77	3/3/77	3/3/77	WITHOUT RECOMMENDATION					
HB 347	2/14/77	3/8/77	3/8/77				3/8/77		
HB 384	2/21/77	3/5/77					3/5/77		
HB 405	2/23/77	3/5-3/7	3/7/77						3/7/77
HB 417	2/16/77	REFERRED TO LOCAL GOVERNMENT							

(Use Separate Sheet for Senate, House Bills, and Resolutions)

BUSINESS & INDUSTRY COMMITTEE

45th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 17	To clarify sections 64-305 and 71-1305.1, R.C.M. 1947	1/04/77	Marks	1/07/77 canceled 1/12/77	DO PASS	1/13/77
HB 31	Recodification and revision of certain chapters of R.C.M. 1947, relating to unfair trade practices	1/04/77	Bardanouve	1/07/77 canceled 2/14/77	TABLED	2/14/77
HB 40	To generally revise and clarify the laws relating to minerals, oil and gas	1/04/77	Kvaalen	1/07/77 canceled 1/12/77	DO PASS	1/18/77
HB 42	For the general revision and clarification of laws relating to professional and occupational licensing	1/04/77	Kvaalen	1/07/77 canceled 1/12/77	DO PASS	1/13/77
HB 49	To require retailers using computerized check-out systems to disclose the price of consumer commodities . . .	1/04/77	Bradley	1/10/77	AS SO AMENDED DO NOT PASS	1/18/77
HB 58	To extend the provisions of the state building code to cover private residential buildings in compliance with safety regulations contained in the state building code	1/04/77	Holmes	1/10/77	DO NOT PASS	2/01/77

MONTANA LEGISLATIVE COUNCIL LIBRARY
MAY 23 '77

BUSINESS AND INDUSTRY COMMITTEE

January 12, 1977

The Business and Industry Committee meeting was called to order on this date at 3:40 P.M., in Room 434, of the Capitol Building, with Chairman Vincent presiding. All members were present, with the exception of Representative Bradley.

Chairman Vincent introduced Representative Marks, sponsor of House Bill 17. Representative Marks then introduced Mr. Bob Pyfer, Staff Attorney, to explain the bill.

Mr. Pyfer opened by explaining the memorandum regarding recodification of laws. The reason for recodification of laws (bills) is modern style and to avoid misinterpretation.

Mr. Pyfer then pointed out the amendments which were being made on House Bill 17 which are looked upon as substantive.

There were no proponents or opponents to House Bill 17.

Representative Kvaalen, sponsor of House Bill 40, introduced Ms. Diana Dowling. Ms. Dowling is the Director of Legal Services; Code Commissioner. Ms. Dowling explained the changes made to present tense and the better interpretation of which House Bill 40 has been recoded.

There were questions on House Bill 40 concerning Section 15 on page 21, Lines 2 through 5. Representative Tower commented on taking two years out of the sentence, the situation would change extremely. Ms. Dowling said one year from date of approval would always occur first. Representative Kvaalen stated that it is not the intent of the recodification of the bills.

Representative Fabrega stated that the committee should hold the bill until more details are supplied and it should be looked into for specific intent. All members agreed to defer the bill to executive session.

Representative Kvaalen, sponsor of House Bill 42 referred the bill to Mr. Pyfer.

Mr. Pyfer noted three amended sections which he explained thoroughly the intent. There was no further discussion on House Bill 42.

Chairman Vincent appointed a subcommittee for House Bill 49. The members include: Representative Harrington; Chairman, Representative Shelden, and Representative Fabrega.

Chairman Vincent deferred executive action on House Bill 58 due

to close intent to legislation. Representative Holmes is introducing a resolution, therefore, House Bill 58 will be considered together with the resolution in executive session rather than duplicating it.

Representative Scully moved that House Bill 17 DO PASS. By given DO PASS, the committee members present voted DO PASS.

Representative Fabrega moved that House Bill 40 PASS FOR FURTHER CONSIDERATION for executive session. All members present voted DO PASS FOR FURTHER CONSIDERATION.

Representative Scully moved that House Bill 42 DO PASS. By given DO PASS, the committee members present voted DO PASS.

The committee discussed the Over-Sight Hearing scheduled for Thursday, January 20 at 6:00 P.M., in the House Chambers, Capitol Building.

There being no further business, the committee adjourned at 4:40 P.M., until Friday, January 14, at 3:30 P.M.

John Vincent

cas

HOUSE BUSINESS AND INDUSTRY COMMITTEE

January 17, 1977

The meeting was called to order at 4:00 p.m., in Room 434. All members were present.

House Bill 132 was discussed. Rep. Manuel, chief sponsor, gave an explanation of House Bill No. 132. He stated that credit unions have a problem facing them. This proposed legislation would help them to deal with their members. The members are demanding better service and convenience. Until recently, credit union members did not have any available means of drawing funds from their savings accounts. He then introduced Mr. Herbert Walberg, Jr. to further explain the necessity of this bill.

The following people testified as proponents: Mr. Herbert Walberg, Jr., Montana Credit Unions League; Mr. Clinton Vanatta, Westside Federal Credit Union in Great Falls; Mr. James Bolzer, Montana Central Credit Union in Billings; Mrs. Kathleen K. Blehm, Rimrock Credit Union in Billings; Mr. Joe Switzler, Valley Credit Union in Billings; Mr. David L. Jackson, Montana Credit Unions League; and Mr. Ray E. Blehm, Jr., Rimrock Credit Union in Billings (testimonies attached).

The following people testified as opponents: Mr. John Cadby, Montana Bankers Association; Mr. Harold Pitts, Montana Independent Bankers; and Mr. Gene Phillips, Conrad National Bank in Kalispell (testimonies attached).

Rep. Manuel closed by saying that if this bill is defeated, our customers will not receive the service they are asking for.

The discussion was open to questions. Mr. Bolzer stated that the fee for the share draft is $4.85 for a book of 200. Mr. Walberg stated that the state and federal chartered credit unions must carry a deposit insurance.

The committee then went into executive session.

Mr. Leo Berry appeared before the committee to explain the 2-year period on House Bill No. 40. He said there was no possible way in which you could end up with a 2-year period. There is always a 1-year permit. The bill contains no substantive changes.

Rep. Harper moved that House Bill No. 40 DO PASS. The motion passed unanimously.

Rep. Harrington asked for an explanation on House Bill No. 49. Rep. Fabrega moved that House Bill No. 49 DO PASS. Rep. Bradley made a substitute motion to vote on the amendments individually. Rep. Fabrega moved to adopt the first amendment. Rep. Bradley made a substitute motion to not adopt the amendment. Her reason being that she does not believe any food establishment would not show the price on the shelf. She said the labels should be on the items. Rep. Fabrega

February 22, 1977
11:00 a.m.

MINUTES OF THE MEETING

BUSINESS AND INDUSTRY COMMITTEE

MONTANA STATE SENATE

The meeting of the Business and Industry Committee was called to order by Chairman Frank Hazelbaker on the above date in Room 404 of the State Capitol Building at 11:00 a.m.

CONSIDERATION AND DISPOSITION OF HOUSE BILL 17. "An Act To Clarify Sections 64-305 And 71-1305.1, R.C.M. 1947."

Bob Pyfer , Code Commissioner's Office, presented this bill. He stated it clarified sections in the law. He went through the bill section by section indicating the language changes and the stricken material.

Hearing closed on HB 17.

Senator Kolstad made a motion that HB 17 Be Concurred In. Senator Goodover seconded. All were in favor. Chairman Hazelbaker stated he would carry this bill on the floor.

CONSIDERATION AND DISPOSITION OF HOUSE BILL 40. "An Act To Generally Revise And Clarify The Laws Relating To Minerals, Oil, and Gas."

Diana Dowling, Code Commissioner's Office, presented the bill. She pointed out some of the changes in the bill. Senator Kolstad asked her to go through the part that the House had problems with. She pointed out section 50-1404 which was conflicting material. This has been changed because you cannot have something effective before it is approved.

Hearing closed on HB 40.

Senator Lowe made a motion that SB 40 Be Concurred In. Senator Kolstad seconded. All were in favor. Senator Lowe stated he would carry this bill on the floor.

CONSIDERATION AND DISPOSITION OF HOUSE BILL 41. "An Act To Revise And Clarify The Montana Alcoholic Beverage Code In Support Of Recodification."

Roger Tippy, Legislative Council, presented this bill. He handed out an explanation of the bill which is attached. (Exhibit #1) He pointed out that on page 19, line 8, if

HB 17
40
41
42

SENATE B+P COMMITTEE

BILL 42

VISITORS' REGISTER

DATE 2-22-77

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOS
Diana Dowling	Code Commission	40	✓	
Bob Pyfer	"	17	✓	
"	"	42	✓	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

ROLL CALL

Business & Industry COMMITTEE

45th LEGISLATIVE SESSION - - 1977 Date 2-22-77

NAME	PRESENT	ABSENT	EXCUSED
Pat Regan, Vice Chairman	✓		
Allen Kolstad	✓		
Pat Goodover	✓		
Bill Lowe	✓		
Jack Devine	✓		
Sandy Mehrens			
Bob Peterson			
Frank Hazelbaker, Chairman	✓		

STANDING COMMITTEE REPORT

February 22 19 77

MR. President,

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE Bill No. 40

Respectfully report as follows: That HOUSE Bill No. 40

BE CONCURRED IN

~~XXXXXXX~~

FRANK W. HAZELBAKER, Chairman.

STATE PUB. CO.
Helena, Mont.

HOUSE BILL NO. 40

INTRODUCED BY KVAALEN

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO MINERALS, OIL, AND GAS; AMENDING SECTIONS 50-202, 50-204, 50-205, 50-303, 50-304, 50-305, 50-429, 50-476, 50-480.7, 50-714, 50-805, 50-1043, 50-1203, 50-1209, 50-1404, 50-1503, 50-1504, 50-1505, 50-1506, 50-1507, 50-1508, 50-1509, 50-1510, 50-1511, 50-1512, 50-1513, 50-1514, 50-1515, 50-1516, 50-1516.1, 50-1517, 60-227, 60-606, 69-3303, 69-3305, AND 73-115, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-202, R.C.M. 1947, is amended to read as follows:

"50-202. Samples of fifty pounds per ton to be retained until settlement. ~~Every such~~ A person, association, or corporation which ~~shall--buy~~ buys any ores upon ~~any~~ an agreement to pay for ~~the same~~ them in amount dependent upon ~~the~~ their metallic contents ~~of the same,~~ or ~~smelt~~ smelts any ore~~,~~ shall retain from the pulp or crushed ore, as the same is sampled, ~~on amount~~ a quantity of not less than 50 pounds out of each ton of ore, which quantity shall be selected regularly and at equal intervals from any lot of ore so

~~brought~~ bought or to be smelted, ~~a quantity not less than fifty pounds out of each ton of such ore,~~ and shall keep ~~the same~~ this quantity separate ~~and apart~~ from any other ores or pulp for a period of ~~thirty~~ 30 days~~,~~ or until full settlement is made and accepted by the shipper~~, and until such~~ Until full settlement is made and accepted, the ore shipper, his agents, or representatives~~, shall be entitled to~~ may take from the quantity so retained any part thereof for the purpose of sampling or assaying ~~the same~~ that part; ~~provided, that~~ however, the value of any part so taken by ~~such~~ the owner or shipper may be deducted from the total value of the ore delivered by him."

Section 2. Section 50-204, R.C.M. 1947, is amended to read as follows:

"50-204. Umpire assayers -- appointment, qualifications, and duties. ~~Any~~ A person, association, or corporation engaged in the sampling of ores with intent to purchase or smelt ~~the same~~ them, whether for themselves or as the agent or agents for other purchasers, shall~~, on or before the tenth day of April, 1909,~~ choose an assayer ~~or assayers who, for at least one year prior to the passage of this act, shall have~~ has operated an assay office or chemical laboratory within this state~~, and to such selected assayer or assayers~~ for at least 1 year. The person, association, or corporation shall ~~be submitted~~ submit to the

selected assayer all samples of ore~~, sampled by such person, association, or corporation,~~ over which there is a dispute as to metallic contents or value between the buyer or sampler and the seller of ~~such~~ the ore. ~~Said~~ The chosen assayer ~~or assayers~~ shall be known as the umpire ~~or umpires~~ for ~~such~~ the person, association, or corporation."

Section 3. Section 50-205, R.C.M. 1947, is amended to read as follows:

"50-205. Notice of selection. Upon the selection of ~~such assayer or assayers~~ the umpire, who shall be actively engaged in the assaying business in this state, ~~every~~ the person, association, or corporation select ng ~~the same~~ him shall, within ~~ten~~ 10 days after ~~such choice~~ the selection is made, post a notice of ~~such choice, in which shall appear the name of the assayer or assayers so selected,~~ the selection in a conspicuous place ~~with~~ within and without the room or house where the sampling of ores is carried on by ~~such~~ the person, association, or corporation."

Section 4. Section 50-303, R.C.M. 1947, is amended to read as follows:

"50-303. ~~Purchasers~~ Statement by purchasers of ore from leased mines ~~to furnish statement. All persons~~ A person or ~~corporations~~ corporation buying or treating ores from leased mines or mining claims, shall furnish ~~both to~~ the lessor and the lessee~~, or lessors and lessees,~~ of ~~such~~ the

mines or mining claims, a true and correct copy of the statement of return of ores from ~~such~~ the sale or shipment~~,~~. ~~such~~ The statement ~~to~~ shall show both the gross and net proceeds derived from ~~such~~ the sale or shipment of ores. Upon shipment of ~~any such~~ the ores from leased premises, either for sale or treatment, the shipper shall furnish to any sampling works or smelter buying or treating ~~same~~ them the ~~name or~~ names, and post-office ~~address~~ addresses of the lessor ~~or lessors,~~ and the lessee ~~or lessees,~~ interested in ~~such~~ that shipment of ores, and within ~~seven~~ 7 days after receipt of ~~such~~ the statement from ~~such~~ the sampling works or smelter, the ~~said~~ shipper shall make settlement with ~~such~~ the lessor ~~or lessors,~~ and the lessee ~~or lessees,~~ for ~~such~~ the shipment or sale of ores, based upon ~~such said~~ the statement received by the parties from ~~such~~ the sampling works or smelter."

Section 5. Section 50-304, R.C.M. 1947, is amended to read as follows:

"50-304. ~~Sampling works and smelters to mail~~ Copy of statement to lessee. ~~That all sampling~~ Sampling works and smelters within this state shall mail a duplicate copy of any statement showing the gross and net proceeds of all ores bought from or treated ~~from~~ for lessors of mines, to the lessee ~~or lessees~~ of the mine or mining claim from which the ~~same shall have been~~ ores were extracted at the same time

~~such~~ the statement is furnished to the lessor of ~~said~~ the mine or mining claim or shipper of ~~such~~ the ore."

Section 6. Section 50-305, R.C.M. 1947, is amended to read as follows:

"50-305. Shipper -- penalty for violation. ~~Any~~ A person or corporation who, as ~~such~~ the shipper, ~~shall violate the provisions of section~~ violates 50-303 ~~shall be~~ as amended, is liable to the lessor ~~or lessors,~~ and the lessee ~~or lessees,~~ for ~~ten per cent~~ 10% of the net returns from ~~such~~ the shipment, or sale, of ores referred to in ~~said~~ that section, in addition to the value of the interest of the lessor ~~or lessors,~~ and the lessee ~~or lessees~~ in ~~said~~ the shipment. ~~the same to~~ This amount may be recovered in an action in any court of competent jurisdiction."

Section 7. Section 50-429, R.C.M. 1947, is amended to read as follows:

"50-429. Underground survey. For the underground working, the map shall show all power distribution and ventilation in ~~maps~~ mines and all shafts, slopes, tunnels, or other openings to the surface or to the workings of a contiguous mine; all excavations, entries, rooms, and crosscuts; the rise or dip of the seam from the bottom of the shaft, mouth of drift, or slope in either direction to the face of the workings; the location of the fan; the location of the permanent pumps, hauling engines,

engine-planes, and ~~fire-walls~~ fire walls; the location of any standing water which might prove a menace to life or danger to property from flood; and the line of any contiguous surface outcrop of the seam."

Section 8. Section 50-476, R.C.M. 1947, is amended to read as follows:

"50-476. ~~Duties of other employees~~ Safety regulations -- mine examiners. (1) A person may not enter a mine which is generating firedamp ~~so as~~ in great enough quantities to be detected by a safety lamp until the mine examiners make a report to the division.

(2) A person, unless accompanied by the mine examiner, may not go beyond a danger signal until all standing gas discovered has been removed or diluted and rendered harmless by a current of air. A person, ~~being~~ ordered to withdraw by the mine foreman or mine examiner from the mine on account of the interruption of the ventilation, may not ~~re-enter~~ reenter the mine until given permission to do so by the mine foreman.

(3) A person other than the mine examiner may not remove any caution board or danger signal placed at the entrance to any working place, or at the entrance to any old workings in a mine.

(4) A person may not erase or change a mark of reference or monument made in connection with a measurement,

1 ~~,~~ change marks or dates ~~or~~ on any caution board, or erase or
2 change the dates at room or entry face, when made by the
3 mine examiner, or take for his use a life check not issued
4 to him under rules adopted by the division, or change the
5 checks on cars, wrongfully check a car, or do any act with
6 intent to defraud.
7 (5) A person may not take anything containing fire,
8 except as provided for in rules adopted by the division,
9 into an underground mine.
10 ~~(5)~~(6) A person may not place refuse in or obstruct an
11 airway or breakthrough used as an airway. A worker or other
12 person may not damage or alter a water gauge, barometer,
13 air-course, brattice equipment, machinery, or livestock~~;~~
14 obstruct or throw open any airway~~;~~ ~~,~~ handle or disturb any
15 part of the machinery of the hoisting engine of a mine, open
16 a door of a mine and neglect to close it~~;~~ endanger the
17 miners or those working therein~~;~~ disobey an order given in
18 pursuance of law, or do a willful act endangering the lives
19 or health of persons working there or the security of a mine
20 or machinery."
21 Section 9. Section 50-480.7, R.C.M. 1947, is amended
22 to read as follows:
23 "50-480.7. ~~Order--no--violation--abatement~~ Review of
24 order. An operator notified of an order made under ~~section~~
25 ~~50-480.2~~ 50-480.3, as amended, may apply to the division for

1 a hearing or revision of the order. If the division finds
2 that there was no violation, it shall make an order
3 rescinding the order under review. If the division finds
4 that there was a violation, but the violation has since been
5 abated, it shall make an order rescinding the order under
6 review. If the division finds that the violation was not
7 totally abated, it shall make an order consistent with its
8 findings."
9 Section 10. Section 50-714, R.C.M. 1947, is amended to
10 read as follows:
11 "50-714. Effect of patent. The issuance of a United
12 States patent for a mining claim ~~shall--be--deemed~~ is
13 considered conclusive evidence that the requirements of the
14 laws of this state, relative to the location and record of
15 such mining claim, have been duly complied with~~;~~ ~~provided,~~
16 ~~however, that where~~ However, if questions of priority are
17 involved, the date of the location shall be an issuable fact
18 where when it is claimed to have been prior to the date of
19 the record of the location."
20 Section 11. Section 50-805, R.C.M. 1947, is amended to
21 read as follows:
22 "50-805. ~~Commissioners to be appointed~~ Court order and
23 appointment of commissioners. Upon the return of the
24 summons, or upon any day to which the hearing is adjourned,
25 the defendants may ~~demur--or~~ answer, and issue must be

joined, and the judge must hear the allegations and proofs of the respective parties~~, and if~~. If, upon such hearing, ~~he~~ the judge is satisfied that the claims of the plaintiff can ~~only~~ be worked conveniently ~~worked~~ only by means of the privilege asked for, he must make an order adjudging and awarding to the plaintiff such ~~right-of-way,~~ right-of-way and must appoint three commissioners~~,~~ who are disinterested persons and residents of the county~~,~~ to assess the damages to the lands or claims affected by such order."

Section 12. Section 50-1043, R.C.M. 1947, is amended to read as follows:

"50-1043. ~~Reclamation----operations----------submission~~ Submission and action on reclamation plan. (1) As rapidly, completely, and effectively as the most modern technology and the most advanced state of the art will allow, each operator granted a permit under this act~~,~~ shall reclaim and revegetate the land affected by his operation, except that underground tunnels, shafts, or other subsurface excavations need not be revegetated. Under the provisions of this act and rules adopted by the board, an operator shall prepare and carry out a method of operation, plan of grading, backfilling, highwall reduction, subsidence stabilization, water control, topsoiling, and a reclamation plan for the area of land affected by his operation. In developing a method of operation~~,~~ and plans of backfilling, subsidence

stabilization, water control, grading, highwall reduction, topsoiling, and reclamation, all measures shall be taken to eliminate damages to landowners and members of the public, their real and personal property, public roads, streams, and all other public property from soil erosion, subsidence, landslides, water pollution, and hazards dangerous to life and property.

(2) The reclamation plan shall set forth in detail the manner in which the applicant intends to comply with this section and ~~sections~~ 50-1044, 50-1045, and 50-1046, as amended. The plan shall be submitted to the department, and the department shall notify the applicant by certified or registered mail within ~~one-hundred-twenty-(120)~~ days after receipt of the plan and complete application if it is or is not acceptable. The department may extend the ~~one--hundred twenty--(120)~~ days an additional ~~one-hundred-twenty-(120)~~ days upon notification of the operator in writing. If the plan is not acceptable, the department shall set forth the reasons why the plan is not acceptable, and it may propose modifications, delete areas, or reject the entire plan. A ~~land-owner~~ landowner, operator, or any person aggrieved by the decision of the department may~~,~~ by written notice~~,~~ request a hearing by the board. The board shall notify the person by certified or registered mail within ~~twenty-(20)~~ days after the hearing of its decision. Every reclamation

plan shall be subject to annual review and modification.

~~(2)~~(3) In addition to the method of operation, grading, backfilling, subsidence stabilization, water control, highwall reduction, topsoiling, and reclamation requirements of this act and rules adopted under this act, the operator, consistent with the directives of subsection (1) of this section shall:

(a) bury under adequate fill all toxic materials, shale, mineral, or any other material determined by the department to be acid producing, toxic, undesirable, or creating a hazard;

(b) as directed by rules seal off, ~~as directed by rules,~~ tunnels, shafts, or other openings or any breakthrough of water creating a hazard;

(c) impound, drain, or treat all runoff or underground mine waters so as to reduce soil erosion, damage to grazing and agricultural lands, and pollution of surface and subsurface waters;

(d) remove or bury all metal, lumber, and other refuse resulting from the operation;

(e) use explosives in connection with the operation only in accordance with department regulations designed to minimize noise, damage to adjacent lands, and water pollution, and ensure public safety, and for other purposes;

(f) adopt measures to prevent land subsidence unless

the board approves a plan for inducing subsidence into an abandoned operation in a predictable and controlled manner with measures for grading, topsoiling, and revegetating the subsided land surface. In order for a controlled subsidence plan to be approved, the applicant must show that subsidence will not cause a direct or indirect hazard to any public or private buildings, roads, facilities, or use areas, constitute a hazard to human life or health, constitute a hazard to domestic livestock or to a viable agricultural operation, or violate any other restrictions the board may consider necessary.

(g) stockpile and protect from erosion all mining and processing wastes until ~~such~~ these wastes can be disposed of according to the provisions of this act;

(h) deposit as much stockpiled waste material as possible back into the mine voids upon abandonment in such manner as to prevent or minimize land subsidence. The remaining waste material shall be disposed of as provided by this act and the rules of the board.

(i) seal all portals, entryways, drifts, shafts, or other openings between the surface and underground mine workings upon abandonment.

~~(3)~~(4) An operator may not throw, dump, pile, or permit the dumping, piling, or throwing or otherwise placing any overburden, stones, rocks, mineral, earth, soil, dirt,

debris, trees, wood, logs, or any other materials or substances of any kind or nature beyond or outside of the area of land which is under permit and for which a bond has been posted under ~~section~~ 50-1039, as amended, or place the materials described in this section in such a way that normal erosion or slides brought about by natural physical causes will permit the materials to go beyond or outside of ~~the~~ that area of land ~~which is under permit and for which a bond has been posted under section 50-1039.~~"

Section 13. Section 50-1203, R.C.M. 1947, is amended to read as follows:

"50-1203. Definitions. As used in this act, unless the context indicates otherwise, the following definitions apply:

(1) "Surface mining" ~~shall mean~~ means and ~~include~~ includes all or any part of the process involved in mining of minerals by removing the overburden and mining directly from the mineral deposits thereby exposed, including, but not limited to, open-pit mining of minerals naturally exposed at the surface of the earth, mining by the auger method, and ~~any and~~ all similar methods by which earth or minerals exposed at the surface are removed in the course of mining. Surface mining ~~shall~~ does not include the extraction of oil, gas, bentonite, clay, coal, sand, gravel, phosphate rock, or uranium ~~nor~~ or excavation or grading conducted for

on-site farming, on-site road construction, or other on-site building construction.

(2) "Unit of ~~surface mined~~ surface-mined area" ~~shall mean~~ means and ~~include~~ includes that area of land and surface water included within an operating permit actually disturbed by surface mining during each ~~twelve-month~~ 12-month period of time, beginning at the date of the issuance of the permit, and ~~shall comprise~~ it comprises and ~~include~~ includes the area from which overburden ~~and~~/or minerals have been removed, the area covered by mining debris, and all additional areas used in surface mining or underground mining operations which, by virtue of such use, are thereafter susceptible to erosion in excess of the surrounding undisturbed portions of land.

(3) "Disturbed land" ~~shall mean~~ means and ~~include~~ includes that area of land or surface water disturbed, beginning at the date of the issuance of the permit, and ~~shall comprise~~ it comprises that area from which the overburden, ~~and~~/or minerals have been removed; and tailings ponds, waste dumps, roads, conveyor systems, leach dumps, and all similar excavations or covering resulting from ~~said~~ the operation and which ~~has~~ have not been previously reclaimed under the reclamation plan.

(4) "Abandonment of surface or underground mining" may be presumed when it is shown that continued operation will

not resume.

(5) "Underground mining" ~~shall mean~~ means and ~~include~~ includes all methods of mining other than surface mining.

(6) "Person" ~~shall mean~~ means and ~~include~~ includes any person, corporation, firm, association, partnership, or other legal entity engaged in exploration for or development or mining of minerals on or below the surface of the earth.

(7) "Mineral" ~~shall mean~~ means and ~~include~~ includes any ore, rock, or substance, other than oil, gas, bentonite, clay, coal, sand, gravel, phosphate rock, or uranium, taken from below the surface or from the surface of the earth for the purpose of milling, concentration, refinement, smelting, manufacturing, or other subsequent use or processing or for stockpiling for future ~~usage~~ use, refinement, or smelting.

(8) "Exploration" ~~shall mean~~ means and ~~include~~ includes all activities conducted on or beneath the surface of lands resulting in material disturbance of the surface for the purpose of determining the presence, location, extent, depth, grade, and economic viability of mineralization in those lands, if any, other than mining for production and economic exploitation, as well as all roads made for the purpose of facilitating exploration, except as noted in ~~section 20 [50-1220]~~ and ~~section 24 [50-1224] herein~~.

(9) "Development" ~~shall mean~~ means and ~~include~~

includes all operations between exploration and mining.

(10) "Mining" ~~shall be deemed to have commenced~~ commences at such time as the operator ~~shall~~ first ~~mine~~ mines ores or minerals in commercial quantities for sale, beneficiation, refining, or other processing or disposition or ~~shall~~ first ~~take~~ takes bulk samples for metallurgical testing in excess of aggregate of ~~ten thousand (10,000)~~ short tons.

(11) "Reclamation plan" ~~shall mean~~ means and ~~include~~ includes the operator's written proposal, as required and approved by the board, for reclamation of the land that will be disturbed, which proposal shall include, to the extent practical at the time of application for a developing or operating permit:

(a) a statement of the proposed subsequent use of the land after reclamation;

(b) ~~Plans~~ plans for surface gradient restoration to a surface suitable for the proposed subsequent use of the land after reclamation is completed, and the proposed method of accomplishment;

(c) ~~Manner~~ the manner and type of revegetation or other surface treatment of disturbed areas;

(d) ~~Procedures~~ procedures proposed to avoid foreseeable situations of public nuisance, endangerment of public safety, damage to human life or property, or

unnecessary damage to flora and fauna in or adjacent to the area;

(e) ~~Method~~ the method of disposal of mining debris;

(f) ~~Method~~ the method of diverting surface waters around the disturbed areas where necessary to prevent pollution of ~~such~~ those waters or unnecessary erosion;

(g) ~~Method~~ the method of reclamation of stream channels and stream banks to control erosion, siltation, and pollution;

(h) ~~Such~~ such maps and other supporting documents as may be reasonably required by the department; and

(i) ~~A~~ a time schedule for reclamation that meets the requirements of ~~section 9 [50-1209] of this act~~.

(12) "Vegetative cover" ~~as used in this act shall mean~~ means the type of vegetation, grass, shrubs, trees, or any other form of natural cover ~~deemed~~ considered suitable at time of reclamation.

(13) "Board" ~~shall mean~~ means the board of land commissioners, or such state employee or state agency as may succeed to its powers and duties under this act.

(14) "Department" ~~shall mean~~ means the department of state lands.

(15) "Small miner" ~~shall mean any~~ means a person, firm, or corporation engaged in the business of mining who does not remove from the earth during any ~~twenty-four (24)~~

24-hour period material in excess of ~~one hundred (100)~~ tons in the aggregate."

Section 14. Section 50-1209, R.C.M. 1947, is amended to read as follows:

"50-1209. Reclamation plan ~~accomplishment of specific activities~~ and specific reclamation requirements. ~~(a)~~(1) The reclamation plan shall provide that reclamation activities, particularly those relating to control of erosion, ~~shall~~, to the extent feasible, shall be conducted simultaneously with mining and in any case shall be initiated promptly after completion or abandonment of mining on those portions of the mine complex that will not be subject to further disturbance by the mining operation. In the absence of an order by the board providing a longer period, the plan shall provide that reclamation activities shall be completed not more than ~~two (2)~~ years after completion or abandonment of mining on ~~said~~ that portion of mine complex.

~~(b)~~(2) In the absence of emergency or suddenly threatened or existing catastrophe, an operator may not depart from an approved plan without ~~having~~ previously ~~obtained~~ obtaining from the department written approval of his proposed change.

~~(c)~~(3) Provision shall be made to avoid accumulation of stagnant water in the mined area which may serve as a host or breeding ground for mosquitoes or other

disease-bearing or noxious insect life.

~~(d)~~(4) All final grading shall be made with nonnoxious, nonflammable, noncombustible solids unless approval has been granted by the board for a supervised sanitary fill.

~~(e)~~(5) Where mining has left an open pit exceeding ~~two (2)~~ acres of surface area, and the composition of the floor ~~and/~~or walls of ~~which~~ the pit are likely to cause formation of acid, toxic, or otherwise pollutive solutions (hereinafter "objectionable effluents") on exposure to moisture, the reclamation plan ~~must~~ shall include provisions which adequately provide for:

~~(1)~~(a) ~~Insulation~~ insulation of all faces from moisture ~~of~~ or water contact by covering to a depth of ~~two (2)~~ feet or more with material or fill not susceptible itself to generation of ~~such~~ objectionable effluents; ~~or~~

~~(2)~~(b) ~~Processing~~ processing of any ~~such~~ objectionable effluents in the pit before their being allowed to flow or be pumped out of it to reduce toxic or other objectionable ratios to a level ~~deemed~~ considered safe to humans and the environment by the board; ~~or~~

~~(3)~~(c) ~~Drainage~~ drainage of any ~~such~~ objectionable effluents to settling or treatment basins when the objectionable effluents must be reduced to levels ~~deemed~~ considered safe by the board before release from the

settling basin; or

~~(4)~~(d) ~~Absorption and/~~ absorption or evaporation of objectionable effluents in the open pit itself; and

~~(5)~~(e) ~~Prevention~~ prevention of entrance into the open pit by persons or livestock lawfully upon adjacent lands by fencing, warning signs, and such other devices as may reasonably be required by the board.

~~(f)~~(6) ~~Vegetative~~ Provisions for vegatative cover ~~will~~ shall be required in the reclamation plan if appropriate to the future use of the land as specified in the reclamation plan.

~~(g)~~(7) The reclamation plan shall provide for the reclamation of all disturbed land. Proposed reclamation need not reclaim the areas to a better condition or different use than that which existed prior to development or mining.

~~(h)~~(8) A reclamation plan ~~will~~ shall be approved by the board if it adequately provides for the accomplishment of the activities ~~heretofore~~ specified in this section."

Section 15. Section 50-1404, R.C.M. 1947, is amended to read as follows:

"50-1404. Approved strip-mining plan required ~~for strip--mining--period--for-which~~ -- effective period. (1) No operator may engage in strip mining without ~~having~~ first ~~obtained~~ obtaining approval of a ~~strip-mining~~ strip-mining plan from the department as provided for in ~~section--5~~

~~[50-1405]~~, as amended.

(2) Approved ~~strip-mining~~ strip-mining plans shall be effective for ~~two (2) years from the date of commencing the operation or one (1)~~ year from the date the plan is approved~~, whichever occurs first.~~"

Section 16. Section 50-1503, R.C.M. 1947, is amended to read as follows:

"50-1503. Contracts for reclamation ~~of open-cut mining land enforcement of contracts.~~ The ~~state~~ board ~~of land commissioners~~ is hereby authorized to enter into contracts with operators in the name of the state of Montana ~~with operators~~ which will provide for the reclamation of lands on which ~~open-cut~~ opencut mining of bentonite, clay, scoria, phosphate rock, sand, and gravel has been or is to be conducted. The ~~state~~ board ~~of land commissioners~~ is authorized to sue and be sued in the name of the state of Montana to enforce the provisions of any contract, and ~~said~~ the board shall bring such court actions and take such other steps and actions as may be necessary to enforce the provisions of such contracts."

Section 17. Section 50-1504, R.C.M. 1947, is amended to read as follows:

"50-1504. Definitions. 627

8

When used in this act, unless a different meaning clearly

appears from the context, the following definitions apply:

(1) "Contract" means a mined land reclamation contract prepared by the ~~commission~~ board to meet the requirements of this act.

(2) "~~Open-cut~~ Opencut mining" means the mining of bentonite, clay, scoria, phosphate rock, sand, or gravel by removing the overburden lying upon natural deposits thereof~~,~~ and mining directly from the natural deposits thereby exposed, including the removal of overburden for the purpose of determining the location, quality, or quantity of any natural deposit of bentonite, clay, scoria, phosphate rock, sand, or gravel.

(3) "Reclamation" means the reconditioning of the area of land affected by ~~open-cut mining~~ opencut-mining operations to make the area suitable for productive use, including but not limited to, forestry, agriculture, grazing, wildlife, recreation, or residential and industrial sites.

(4) "Overburden" means all of the earth and other materials which lie above a natural deposit of bentonite, clay, scoria, phosphate rock, sand, or gravel. "Spoil" is the overburden disturbed from its natural state in the process of ~~open-cut~~ opencut mining.

(5) "Operator" means ~~any~~ a person engaged in and controlling an ~~open-cut mining~~ opencut-mining operation.

(6) "Affected land" means the area of land from which overburden is to be or has been removed and upon which the overburden is to be or has been deposited.

(7) "~~Commission~~ Board" means the state board of land commissioners.

(8) "Person" means ~~any~~ a natural person~~,~~ or ~~any~~ a firm, association, partnership, cooperative, or corporation or any department, agency, or instrumentality of the state or any governmental subdivision~~,~~ or any other entity ~~whatsoever~~ whatever.

(9) "Landowner" means the owner of land directly or indirectly affected by an ~~open-cut-mining~~ opencut-mining operation.

(10) "Public notice" means notice given by publication in a newspaper in the general area where the affected land is located. ~~Such~~ The notice shall be given once a week for ~~three (3)~~ successive weeks.

(11) "Soils materials" are those horizons containing topsoil or other soils leached free of deleterious salts and capable of sustaining plant growth and recognized as such by standard authorities.

(12) "Refuse" means all waste material directly connected with the ~~open---cut---mining~~ opencut-mining operations.

(13) "Final cut" means the last pit created in an ~~open~~

~~cut-mined~~ opencut-mined area.

(14) "~~High--wall~~ highwall" means that side of the pit adjacent to unmined land.

(15) "Reclamation plan" means the description of current land use, topographical data, water data, soils data, leased areas, intended mine areas, and ~~description--of~~ an explanation of proposed reclamation of the land with appropriate maps.

(16) "Progress report" means a report showing the land which the operator has affected by ~~open-cut~~ opencut mining during the year. ~~Such~~ The report shall show the number of acres of affected land and all reclamation accomplished."

Section 18. Section 50-1505, R.C.M. 1947, is amended to read as follows:

"50-1505. Administration ~~of--act~~ -- delegation of functions. The ~~commission~~ board is the administrator of this act and it has all the power necessary to implement and enforce it. The ~~commission~~ board may delegate to the commissioner of state lands such powers, duties, and functions under this act as it ~~deems~~ considers necessary for the performance of its duties."

Section 19. Section 50-1506, R.C.M. 1947, is amended to read as follows:

"50-1506. Powers, duties, and functions of ~~commission~~ board. The ~~commission~~ board has the following powers,

duties, and functions to:

(1) to enter into contracts where it is found on the basis of the information set forth in the application and an evaluation of the operation by the commission board that the requirements of the act or rules will be observed and that the operation and the reclamation of the affected area can be carried out consistent consistently with the purpose of the act;

(2) to prepare and adopt rules and regulations pertaining to open-cut opencut mining to accomplish the purposes of this act;

(3) to conduct hearings and, for the purposes of conducting such hearings, to administer oaths and affirmations, to subpoena witnesses, to compel attendance of witnesses, to hear evidence, and to require the production of any books, papers, correspondence, memoranda, agreements, documents, or other records relevant or material to the inquiry;

(4) to adopt uniform procedures for the filing of necessary records, the issuance of contracts, and for any other matters of administration not specifically enumerated in this act;

(5) to reclaim any affected land with respect to which a bond has been forfeited; and

(6) to make investigations or inspections which may be

deemed are considered necessary to insure compliance with any provisions provision of this act."

Section 20. Section 50-1507, R.C.M. 1947, is amended to read as follows:

"50-1507. Contract for reclamation required for--large open-cut-operations. From-and-after After the-effective-date of--this--act March 16, 1973, no operator shall may conduct open-cut-mining opencut-mining operations which shall will result in the removal of ten-thousand-(10,000) cubic yards, or more, of product or overburden, until he has entered into a contract with the commission board for the reclamation of the land affected. Any An operator conducting a number of operations, each of which result in the removal of less than ten-thousand-(10,000) cubic yards of product or overburden but which result in the removal of ten-thousand-(10,000) cubic yards, or more, of product or overburden in the aggregate shall--be is subject to the provisions of this act."

Section 21. Section 50-1508, R.C.M. 1947, is amended to read as follows:

"50-1508. Application for contract -- contents -- issuance of-contract -- amendment --withdrawal-of-land. (1) Applications for a contract shall be made upon a form furnished by the commission board, which form contains shall contain the following:

~~(1)~~(a) the name of the operator and, if other than the owner of the land, the name and address of the owner~~.~~;

~~(2)~~(b) the type of operation to be conducted;

~~(3)~~(c) the volume of earth to be removed, as accurately as the ~~same~~ volume may then be estimated, and the volume which has been previously removed, if any;

~~(4)~~(d) the location of the operation by legal subdivision, section, township and range, and county;

~~(5)~~(e) the date when ~~such~~ the operation was or will be commenced; and

~~(6)--the operator must submit a plan of--his--operation and--the--method and manner of reclamation that will be used or followed. If--the--operator,--prior--to--applying--for--a contract, notifies the commission of his intention to submit a--plan,--and requests the commission to examine the area to be mined, the commission shall cause the area to be examined and--make--recommendations---to---the---operator---regarding reclamation;~~

~~(7)~~(f) a statement that the applicant has the right and power by legal estate owned to mine by ~~open-cut~~ opencut mining the lands so described~~;~~.

~~(8)~~(2) ~~the~~ The application shall be accompanied by:

(a) a bond or security meeting the requirements as set out in this act~~, and~~;

(b) a fee of ~~fifty dollars ($50)~~; and

(c) the operator's plan of his operation and the method and manner of reclamation that will be used or followed.

(3) If, prior to applying for a contract, the operator notifies the board of his intention to submit a plan and requests the board to examine the area to be mined, the board shall cause the area to be examined and make recommendations to the operator regarding reclamation.

(4) Upon receipt of ~~such~~ the application, bond or security, and fee due from the operator~~,~~ and upon agreement to the terms of the contract by the parties, the ~~commission~~ board may issue a contract to the applicant which ~~shall entitle~~ entitles him ~~thereafter~~ to continue in or engage in ~~open-cut~~ opencut mining ~~or~~ on the land therein described~~;~~.

~~(9)~~(5) ~~an~~ An operator desiring to have his contract amended to cover additional contiguous or nearby land may file an amended application with the ~~commission~~ board. Upon receipt of the amended application~~,~~ and such additional bond as may be required~~,~~ and upon agreement to the terms of the amendment by the parties, the ~~commission~~ board may issue an amendment to the original contract covering the additional land described in the amended application~~,~~ without the payment of any additional fee~~;~~.

~~(10)~~(6) ~~an~~ An operator may withdraw any land covered by contract, except affected land, by notifying the

~~commission~~ board thereof, in which case the penalty of the bond or security filed by ~~such~~ the operator pursuant to the provisions of this act shall be reduced proportionately."

Section 22. Section 50-1509, R.C.M. 1947, is amended to read as follows:

"50-1509. ~~Terms--of--bond-required--deposit-in-lieu-of bond--substitution-of--bond--forfeiture--release~~ Bond. (1) ~~Any~~ A bond required to be filed in this act by the operator shall be in such form as the ~~commission--prescribed~~ board prescribes, payable to the state of Montana~~,~~ and conditioned upon the operator's full compliance with all requirements of this act and all rules ~~and-regulations~~ of the ~~commission~~ board. ~~Such~~ The bond shall be signed by the landowner or operator, as appropriate, as principal, and by a good and sufficient corporate surety~~,~~ licensed to do business in the state of Montana, as surety. The penalty of ~~such~~ the bond shall be in an amount not to exceed the costs of restoration required by this act as determined by the ~~commission,~~ board but ~~shall~~ may not be less than ~~two-hundred-dollars-($200)~~ ~~nor~~ or more than ~~one-thousand-dollars-($1,000)~~ per acre.

(2) In lieu of ~~such~~ the bond, the operator may deposit with the board cash and government securities or a bond with property sureties ~~with-the-commission~~ in an amount equal to that of the required bond on conditions as above prescribed. In the discretion of the ~~commission~~ board, surety bond

requirements may be fulfilled by the operator's posting a bond with land and improvements and facilities thereon as security, in which event no surety ~~shall~~ may be required. The penalty of the bond or amount of cash and securities shall be increased or reduced from time to time as provided in this act. ~~Such~~ The bond or security ~~shall-be-and-remain~~ remains in effect until the mined acreages have been reclaimed~~,~~ as provided under the contract~~,~~ and the reclamation has been approved and the bond or security has been released by the ~~commission,~~ board. ~~and-shall-from-time to-time~~ The bond or security shall cover only actual mined acreages and may be increased or reduced to cover only such acreages as ~~remained~~ remain unreclaimed.

(3) If the license ~~to-do-business-in-the-state~~ of ~~any~~ a surety upon a bond filed with the ~~commission~~ board pursuant to this act ~~shall-be~~ is suspended or revoked, the operator, within ~~thirty--(30)~~ days after receiving notice thereof from the ~~commission~~ board, shall substitute for ~~such~~ that surety a good and sufficient surety licensed to do business in the state. Upon failure of the operator to make substitution of surety, the ~~commission-shall-have-the--right to~~ board may suspend the contract of the operator to conduct operations upon the land described in ~~such~~ the contract until ~~such~~ the substitution has been made.

(4) The ~~commission~~ board shall cause ~~to--be--reclaimed~~

the reclamation of any affected land with respect to which a bond has been forfeited.

(5) Whenever an operator ~~shall have completed~~ has completed all of the requirements under the provisions of this act as to any affected land, he shall notify the ~~commission~~ board thereof. If the ~~commission shall release~~ board releases the operator from further obligation regarding such affected land, the penalty of the bond shall be reduced proportionately."

Section 23. Section 50-1510, R.C.M. 1947, is amended to read as follows:

"50-1510. ~~Contract--requirements--performance--bond--effective--period--of--contract~~ Reclamation plan part of contract -- requirements. The contract shall meet the following requirements:

(1) The operator shall submit a reclamation plan to the ~~commission~~ board before commencing any ~~open-cut~~ opencut mining, and may not commence mining before ~~it~~ the plan receives approval from the ~~commission~~ board. The operator may request and receive a meeting with the ~~commission~~ board prior to submission of the plan. If the ~~commission~~ board does not notify the operator that it has approved or disapproved a plan within ~~thirty (30)~~ days after the ~~commission~~ board has received the plan, the ~~commission shall be deemed~~ board is considered to have approved the plan. The

~~commission~~ board, however, ~~may~~ for sufficient cause, may extend its period of consideration for an additional ~~thirty (30)~~ days if it notifies the operator prior to the end of the original ~~thirty (30) day~~ 30-day period. The ~~commission~~ board shall submit ~~all~~ each reclamation ~~plans~~ plan or amendments to the reclamation plan to the landowner for his recommendations and shall consider those recommendations in deciding whether to approve or disapprove any plan or amendments. The ~~commission~~ board may seek technical help from any state or federal agency. The ~~commission must~~ board shall submit the plan immediately to the director, of the university of Montana statewide archaeological survey for evaluation of possible archaeological or historical values in the area to be mined. The ~~commission~~ board may approve a reclamation plan only if the ~~commission~~ board has found that the plan provides for the best possible reclamation procedures available under the circumstances at the time, so that after mining operations are completed the affected land ~~shall~~ will be reclaimed to a productive use. Once the reclamation plan ~~has been~~ is accepted in writing by the ~~commission~~ board, it shall become a part of the contract but ~~shall be~~ is subject to annual review and modification by the ~~commission~~ board.

(2) The ~~commission~~ board may not approve any reclamation plan unless the plan provides ~~that~~:

(a) that the land will be reclaimed for one or more specified uses, including but not limited to~~:~~ forest, pasture, orchard, cropland, residence, recreation, industry, habitat for wildlife, ~~(~~including food, cover, or water~~)~~, ~~for wildlife~~ or other uses;

(b) that to the extent reasonable and practicable, the operator ~~shall~~ will establish vegetative cover commensurate with the proposed land use;

(c) ~~where~~ whenever operations result in a need to prevent acid drainage or sedimentation~~,~~ on or in adjoining lands or streams, ~~there shall be provisions~~ for the construction of earth dams or other reasonable devices to control water drainage, provided the formation of such impoundments or devices will not interfere with other landowners' rights or contribute to water pollution;

(d) that to accomplish practical utilization of soil materials, such material will be utilized for placement on affected areas, if required by the reclamation plan after completion or termination of that particular phase of the mining operations, at a depth sufficient for plant growth on slopes of 3:1 or less~~;~~;

(e) ~~Grading specifications shall~~ that grading will be commensurate with the topography sought and land use designated;

~~(e)~~(f) that metal and other waste ~~shall~~ will be

removed or buried;

~~(f)~~(g) that all access, haul, and other support roads ~~shall~~ will be located, constructed, and maintained in such a manner as to control and minimize channeling and other erosion;

~~(g)~~(h) that the operator ~~shall~~ will submit a progress report annually to the ~~commission a progress report~~ board;

~~(h)~~(i) that all operations ~~shall~~ will be conducted so as to avoid range and forest fires and spontaneous combustion~~. Open~~ and that open burning of carbonaceous materials ~~shall~~ will be in accordance with suitable practices for fire prevention and control;

~~(i)~~(j) that archaeological and historical values in areas to be mined ~~shall~~ will be given appropriate protection;

~~(j)~~(k) that except for rock faces, bench faces, and excavations used for water impoundments, each surface area of the mined premises which will be disturbed ~~shall~~ will be revegetated when its use for extractive purposes is no longer required~~.~~;

(l) ~~Seeding~~ that seeding and planting ~~shall~~ will be done in a manner to achieve a permanent suitable vegetative cover for wildlife, livestock, and retardation of erosion~~.~~ ~~All~~ and that all seed will be drilled unless otherwise provided in the plan;

~~(k)~~(m) that reclamation ~~shall~~ will be as concurrent with mining operations as feasible~~,~~ and ~~must~~ will be completed within a specified length of time.

(3) If reclamation according to the plan has not been completed in the time specified, the ~~commission shall~~ board after ~~thirty (30)~~ days' written notice shall order the operator to cease mining~~,~~ and, if the operator does not cease, shall institute an action to enjoin further operation and may sue for damages for breach of contract, for payment of the performance bond, or for both.

(4) (a) At any time during the period of reclamation the operator may for good reason submit to the ~~commission~~ board a new reclamation plan or amendment to the existing plan, including extensions of time.

(b) The ~~commission~~ board may approve the proposed new reclamation plan~~,~~ or amendments to the existing plan if:

(i) the operator has in good faith carried on reclamation according to the existing plan~~,~~ and ~~(ii)~~ the proposed new plan~~,~~ or amendments to the existing plan~~,~~ will result in reclamation as or more desirable ~~or more so~~ than the reclamation proposed under the existing plan~~;~~ or

~~(iii)~~(ii) it is highly improbable reclamation will be successful unless the existing plan is replaced or amended.

(c) When accepted, the proposed new reclamation plan or the proposed amendments to the existing plan ~~becomes~~

become a part of the contract.

(5) The operator shall provide a performance bond~~,~~ or an alternative acceptable to the ~~commission,~~ board in an amount commensurate with the estimated cost of reclamation, but in no case ~~shall~~ may the bond be less than ~~two hundred dollars ($200)~~ per acre. The estimated cost of reclamation shall be set forth in the reclamation plan.

(6) The contract, reclamation plan, and amendments accepted by the ~~commission~~ board shall be a public record and open to inspection.

(7) The contract shall become effective when signed by the ~~commission~~ board and the operator~~,~~ and shall remain in force until terminated by mutual consent or by the ~~commission~~ board upon ~~six (6) months'~~ 6-months' notice."

Section 24. Section 50-1511, R.C.M. 1947, is amended to read as follows:

"50-1511. Receipt ~~of funds by commission -- reclamation work -- by -- commission~~ and expenditure of funds. (1) The ~~commission~~ board may receive any federal funds, state funds, or any other funds for the reclamation of land affected by ~~open-cut~~ opencut mining. The ~~commission~~ board may cause the reclamation work to be done by its own employees or by employees of other governmental agencies, soil conservation districts, or through contracts with qualified persons.

(2) Any funds or any public works programs available

to the ~~commission~~ board shall be used and expended to reclaim and rehabilitate any lands that have been subject to ~~open-cut~~ opencut mining that have not been reclaimed and rehabilitated in accordance with the standards of this act."

Section 25. Section 50-1512, R.C.M. 1947, is amended to read as follows:

"50-1512. Inspection of ~~open--cut~~ opencut mining by ~~commission~~ board. The ~~commission,~~ board or its accredited representatives, may enter upon lands subjected to ~~open--cut~~ opencut mining at all reasonable times for the purpose of inspection, to determine whether the provisions of this act have been complied with."

Section 26. Section 50-1513, R.C.M. 1947, is amended to read as follows:

"50-1513. Operation without contract ~~as misdemeanor~~ -- penalty. Anyone required by this act to have a contract and who engages in ~~open-cut~~ opencut mining without previously securing a contract to do so as prescribed by this act is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than ~~five hundred dollars ($500)~~ and not more than ~~one--thousand--dollars--($1,000)~~. Each day of operation without a contract required by this act ~~shall--be deemed~~ is a separate violation."

Section 27. Section 50-1514, R.C.M. 1947, is amended to read as follows:

"50-1514. Reclamation of land on which bond forfeited. ~~The commission shall have the power to~~ In keeping with the provisions of this act, the board may reclaim ~~in keeping with the provisions of this act,~~ any affected lands with respect to which a bond has been forfeited."

Section 28. Section 50-1515, R.C.M. 1947, is amended to read as follows:

"50-1515. ~~Commission~~ Board hearing ~~on final order of commissioner--judicial review~~. (1) A person who is aggrieved by a final decision of the commissioner of state lands is entitled to a hearing before the ~~commission~~ board.

(2) The Montana Administrative Procedure Act (~~title~~ Title 82, chapter 42, R.C.M. 1947) governs hearings before the ~~commission~~ board and judicial review of decisions of the ~~commission~~ board under this act."

Section 29. Section 50-1516, R.C.M. 1947, is amended to read as follows:

"50-1516. Exemption ~~of~~ -- operations covered by ~~other law~~ metal mine reclamation. Nothing in this act ~~shall~~ may be construed to be applicable to mining or exploration operations which are regulated under the provisions of Title 50, chapter 12, R.C.M. 1947."

Section 30. Section 50-1516.1, R.C.M. 1947, is amended to read as follows:

"50-1516.1. ~~Exceptions~~ Chapter inapplicable to state

and local government. The provisions of this chapter relating to fees or bonds ~~shall~~ do not apply to the state of Montana, counties, cities, or towns."

Section 31. Section 50-1517, R.C.M. 1947, is amended to read as follows:

"50-1517. Exemption ~~of~~ -- operations on federal lands. This chapter ~~shall not be~~ is not applicable to operations on certain federal lands as specified by the board, provided it is first determined by the board that federal law or regulations issued by the federal agency administering ~~such~~ the land, impose controls for reclamation of ~~said~~ those lands equal to or greater than those imposed by this chapter."

Section 32. Section 60-227, R.C.M. 1947, is amended to read as follows:

"60-227. Petroleum and liquefied petroleum meter license fees. A petroleum or liquefied petroleum dealer shall pay license fees as follows:

(1) ~~All~~ for petroleum vehicle tank meters and bulk petroleum meters of ~~two--and--one-half-(~~2 1/2~~)~~ inches and under, ~~six-dollars-($6)~~;

(2) ~~All-two-and-one-half-(2-1/2)~~ for 2 1/2 inch and under petroleum meters for more than one fluid, ~~ten-dollars ($10)~~;

(3) ~~All~~ for bulk petroleum meters over ~~two---and one-half-(~~2 1/2~~)-inch~~ inches, ~~ten-dollars-($10)~~;

(4) ~~All~~ for petroleum meters over ~~two-and-one-half (~~2 1/2~~)-inch~~ inches for more than one fluid, ~~fifteen-dollars ($15)~~; and

(5) ~~All~~ for liquefied petroleum liquid meters, ~~fifteen dollars-($15)~~."

Section 33. Section 60-606, R.C.M. 1947, is amended to read as follows:

"60-606. Expenses of representative. The representative, or the assistant representative appointed by the governor of the state of Montana, to the oil compact commission shall be allowed and paid his reasonable expenses while engaged in the performance of his official duties, and ~~said~~ his expenses and all other expense incurred in connection with the ~~said~~ interstate oil compact and ~~said~~ the interstate oil compact commission shall be paid out of the ~~oil-conservation-board~~ board of oil and gas conservation revenue fund in accordance with the provisions of ~~60-121~~ 60-145, as amended."

Section 34. Section 69-3303, R.C.M. 1947, is amended to read as follows:

"69-3303. ~~Filing--of--notice~~ Notice of intention to ~~engage-in-geophysical--exploration~~ explore. ~~It--shall--be necessary-for-any~~ A person, firm, or corporation desiring to engage in ~~such~~ geophysical exploration within the state of

Montana~~,prior to actually so engaging in such exploration,~~ ~~to~~ shall file a notice of intention to engage in ~~such geophysical~~ the exploration with the county clerk and recorder in each county in which exploration is to be carried on~~,~~ or engaged in. The ~~said~~ notice ~~of intention to engage in such geophysical exploration~~ shall be filed prior to the actual commencement of ~~such geophysical~~ the exploration."

Section 35. Section 69-3305, R.C.M. 1947, is amended to read as follows:

"69-3305. ~~Issuance of geophysical exploration permit--requirements--contents--period--valid--for--costs--carrying of permit~~ Exploration permit. ~~The county clerk and recorder of each county in the state of Montana,~~

(1) ~~upon~~ Upon compliance with the provisions herein contained, namely the filing of a notice of intention to engage in ~~such geophysical~~ the exploration~~, in addition to~~ and a certificate (or photostatic copy thereof) from the secretary of ~~the~~ state ~~of Montana~~ certifying the name and address of the resident agent for service of process for ~~said~~ the person, firm, or corporation desiring to engage in ~~such geophysical~~ the exploration~~,~~ and certifying that the required surety bond has been filed with the ~~said~~ secretary of state, ~~shall issue~~ the county clerk and recorder shall issue to ~~such~~ the person, firm, or corporation a

"geophysical exploration permit~~,~~".

(2) ~~which~~ The permit ~~will~~ shall show:

(a) the ~~names~~ name of the person, firm, or corporation~~, his or its~~ and principal place of business;

(b) if a firm or corporation, the names and addresses of its officers;

(c) the name and address of the resident agent for service of process for ~~said~~ the person, firm, or corporation;

(d) that a notice of intention to engage in ~~such~~ geophysical exploration has been duly filed; and

(e) that a good and sufficient surety bond has been filed by the ~~said~~ person, firm, or corporation, naming the surety company and giving its address~~;~~.

(3) ~~such~~ The permit ~~to~~ shall be signed by the county clerk and recorder ~~and~~/or his deputy~~,~~ and ~~bearing~~ bear the official county seal. ~~Such~~ The permit shall be valid and effective for all ~~such~~ geophysical crews of the permittee during the calendar year in which it is issued.

(4) The cost of the ~~said~~ permit shall be ~~five dollars ($5.00)~~ per calendar year or any portion thereof for which issued, and the revenues realized therefrom shall go to the county so issuing. Such funds as are realized shall be applied toward payment of the cost of printing ~~said~~ the permits, which shall be printed at the county seat, and ~~such~~

excesses shall~~, from year to year,~~ go into the county's general fund~~;, provided, however, that if~~

(5) If printed forms are not available at the time any person, firm, or corporation desires ~~such~~ the permit and qualifies for its issuance, typewritten or other form of reproduction of ~~such~~ the permit may be used ~~and~~, the fee of ~~five dollars ($5.00)~~ nevertheless shall ~~nevertheless~~ be paid for its issuance, and ~~such~~ this fee shall be disposed of in the same manner.

(6) The ~~said~~ permit or a photostatic copy thereof shall be carried by the person~~,~~ or by the agent of the firm or corporation~~,~~ at all times during the period of ~~such~~ the geophysical exploration and shall be exhibited upon demand ~~by~~ of any county or state official."

Section 36. Section 73-115, R.C.M. 1947, is amended to read as follows:

"73-115. Action to compel release~~--damages--attorney's fees--release without suit. Should the owner of such lease neglect or refuse~~ (1) If the lessee or assignee thereof neglects or refuses to execute a release as provided by this act, ~~then~~ the owner of the leased premises may sue in any court of competent jurisdiction to obtain ~~such~~ the release, and in such action he also may ~~also~~ recover ~~in such action of~~ from the lessee, his successor, or assigns~~,~~ the sum of ~~one hundred dollars ($100.00)~~ as damages, ~~and~~ all

costs, together with a reasonable attorney's fee for preparing and prosecuting the suit, and ~~he may also recover~~ any additional damages that the evidence in the case ~~will warrant~~ warrants. ~~In all such actions writs~~ Writs of attachment may issue as in other cases. If~~,~~ in ~~such~~ the action~~,~~ the plaintiff fails to establish the forfeiture of the lease, an attorney's fee must be allowed to the ~~holder~~ lessee or assignee of the lease. Issues in regard to ~~such~~ attorney's fees shall be determined in the same manner as other issues in such actions.

(2) When, by its terms, ~~any such~~ an oil ~~and~~/or gas lease has expired and is subject to forfeiture for nonperformance and more than ~~three (3)~~ years ~~has~~ have elapsed since ~~said~~ the expiration, the owner of the leased premises ~~may~~, in addition to all other remedies, may serve a written notice on ~~said~~ the lessee or on the assignee thereof, which notice shall state:

(a) the ~~name~~ names of the lessor, ~~the~~ lessee, and ~~the~~ assignee thereof if assigned;

(b) the date of the lease~~;~~ and the date of the expiration thereof;

(c) the description of the lands leased;

(d) the place, book, and page where the lease is recorded; and ~~shall state that unless said lease or abstract of such lease is released of record, or~~

(e) that if the lessee or assignee fails to execute a release of record of the lease or abstract of the lease, the lease shall be terminated and of no effect and shall cease to be a lien upon the lands described therein, unless the lessee or the assignee thereof ~~shall~~, within ~~sixty (60)~~ days from the date of service ~~thereof, file an affidavit~~ of the notice, files, in the county clerk's office in the county ~~wherein such~~ where the lease or abstract of such lease is recorded, an affidavit stating that the lease is in effect and ~~deliver~~ delivers a copy thereof to the owner of the leased lands ~~stating that said lease is in effect, otherwise, said lease shall be terminated and of no effect and shall cease to be a lien upon the lands described therein~~.

(3) If the lessee ~~of~~ or the assignee thereof resides in the county where ~~said~~ the lease or abstract of ~~such~~ the lease is recorded, the notice shall be personally served on ~~said~~ that person ~~or persons~~. If ~~said~~ the lessee or the assignee thereof does not reside in ~~said~~ that county, but his ~~her or its~~ address appears on the records in that county clerk's office, or is otherwise known, ~~such~~ the notice shall be mailed by ~~registered~~ certified mail to ~~such~~ that person ~~or persons~~, at ~~such~~ that address, and in addition thereto ~~such~~ the notice shall be published once a week for ~~two~~ 2 consecutive weeks in a newspaper of general

circulation in the county in which ~~said~~ the lands are situated, ~~and said notice shall likewise be published in the manner as above provided if~~ If the address of the lessee or assignee is unknown, the notice shall be published in the manner provided above. The date of service of ~~said~~ the notice, if served personally, the date of mailing, if served by mail, and the first date of publication of ~~said~~ the notice, if published, must be at least ~~sixty (60)~~ days before the date of termination referred to in ~~said~~ the notice.

(4) Upon the expiration of the time mentioned in ~~said~~ the notice, if the affidavit of the lessee or assignee has not been filed as herein provided, the owner of the leased lands shall file an affidavit ~~or~~ of service ~~thereof~~ of the notice in the county clerk's office of ~~said~~ the county in which the lands are located, and the affidavit shall be kept as a permanent file in his office, and ~~such~~ this proof of notice when so filed ~~shall be~~ is prima facie evidence of the sufficiency of the notice, and from ~~and after~~ the filing thereof ~~said~~ the lease ~~shall be~~ is terminated and the lands released from the lien thereof."

-End-